

U.S. CA 3067
No. 15920 ✓

United States
Court of Appeals
for the Ninth Circuit

EINAR GLASER and DOROTHY GLASER,
Appellants,

vs.

MARGUERITE L. CONNELL and WILLIAM
F. WHITE and JANET D. WHITE,
Appellees.

Transcript of Record

Appeal from the United States District Court for the
Western District of Washington,
Northern Division

FILED

MAY 20 1958

PAUL P. O'BRIEN, CLERK

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INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Amended Designation of Record To Be Printed (USCA)	143
Appeal:	
Amended Designation of Record on (USCA)	143
Certificate of Clerk to Transcript of Record on	32
Notice of	29
Statement of Points on.....	31, 142
Stipulation re Exhibits on (USCA).....	145
Certificate of Clerk to Transcript of Record on Appeal	32
Designation of Record To Be Printed, Amended (USCA)	143
Findings of Fact and Conclusions of Law.....	16
Judgment	27
Names and Addresses of Attorneys.....	1
Notice of Appeal.....	29
Pre-Trial Order	3

ii.

Statement of Points on Appeal (DC).....	31
Adoption of (USCA).....	142
Stipulation re Exhibits on Appeal (USCA)...	145
Transcript of Testimony.....	35

Witnesses:

Connell, Marguerite L.

—direct	36
—cross	73

Glaser, Dorothy Brock

—direct	110
—cross	119

Glaser, Einar

—direct	75
—cross	94
—redirect	109

Holdorf, Dwight

—cross	124
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In the District Court of the United States, Western
District of Washington, Northern Division

Civil No. 4199

EINAR GLASER and DOROTHY GLASER,
his wife, Plaintiffs,
vs.

MARGUERITE L. CONNELL, a widow, and
WILLIAM S. WHITE and JANE DOE
WHITE, his wife, Defendants.

PRE TRIAL ORDER

As the result of pre trial conference heretofore had, whereat the plaintiff was represented by Wayne Wright, Esq., Leo Levenson, Esq. and Norman B. Kobin, Esq., and defendant Marguerite L. Connell was represented by Malcolm S. McLeod, Esq., and William F. White, Esq., of Messrs. White, Sutherland and White, their respective attorneys of record, the following issues of fact and law were framed and exhibits identified:

Admitted Facts

As to plaintiff's claim upon complaint:

1. That the plaintiffs, Einar Glaser and Dorothy Glaser are residents and citizens of the State of Oregon; that defendant Marguerite L. Connell is a resident and citizen of the State of Washington; that defendants William F. White and his wife, Janet D. White, are residents and citizens of the

State of Oregon; that last named defendants were served summons and complaint in this cause at Portland, Oregon and have not appeared in said cause. That the amount in controversy between plaintiff and defendants, exclusive of costs and interest, is in excess of \$3,000.00.

2. That defendant Marguerite L. Connell, is a widow and the owner and in possession of residential real property located at 2812 Mt. St. Helens Place, Seattle, Washington, as described in both the complaint and the mortgage herein involved.

3. That the certain promissory note dated July 12, 1950, plaintiffs' Exhibit No. 1 as referred to in paragraph III of plaintiffs' complaint was executed by defendant Marguerite L. Connell at Portland, Oregon, during the month of July, 1951. That the mortgage dated July 12, 1950, plaintiffs' Exhibit No. 2 and referred to in paragraph IV of plaintiffs' complaint was executed by defendant Marguerite L. Connell at Portland, Oregon during the month of July, 1950, or July, 1951. That the execution of each and both of said promissory note and mortgage by defendant Marguerite L. Connell was induced and procured by fraud practiced upon her by the acts of Holdorf Oyster Corporation, the original payee and mortgagee, Dwight Holdorf, E. R. Errion, and others.

Holdorf Oyster Corporation was the alter ego of E. R. Errion.

4. That said mortgage was recorded August 14, 1951 in the office of the King County Auditor, Seat-

tle, Washington in Volume 2853 of Mortgages at page 521. That on or about September 12, 1951 a written assignment of said mortgage to the plaintiffs herein, dated August 8, 1951, Plaintiffs' Exhibit No. 3 was recorded with the King County Auditor, Seattle, Washington in Volume 2862 of Mortgages at page 146.

5. That plaintiffs did pay the sum of \$518.05 on account of delinquent real property taxes on said real property in September, 1955 and defendant Marguerite L. Connell has since paid on account of delinquent real property taxes the sum of \$525.08 during September, 1956; that real property taxes for the years,,, totaling \$., for principal penalties and interest are unpaid.

6. That defendant Marguerite L. Connell has never paid any money whatsoever on account of said note and mortgage. There is unpaid on said note the full sum of \$16,000.00 plus interest thereon. That the first demand by plaintiffs for payment was made upon Marguerite L. Connell by letter dated December 16, 1953 and then for full amount of principal and interest due thereon.

7. That plaintiffs purchased said note and mortgage from the Holdorf Oyster Corporation for a valuable consideration to wit: the sum of \$16,000.00 or or about August 8, 1951 and now are the owners thereof, as transferees or assignees, and not as holders in due course; but having acquired the same without actual knowledge of the fraud practiced

upon the defendant Marguerite L. Connell by their assignor.

(By this admission of fact the parties agree it shall not preclude evidence or findings of fact in previous litigation, if otherwise competent, to establish facts to show the equities of the parties even though such be inconsistent therewith.)

8. Both parties agree that their clients will be present at the trial of this cause.

* * * * *

Contentions of Plaintiffs

As to plaintiffs' claim upon complaint:

1. Plaintiffs and defendant were each defrauded by the acts of E. R. Errion, Holdorf Oyster Corporation, and others. Both parties respectively are innocent of any fraud. The sole issue is whether or not plaintiffs or defendant should bear the loss caused by the acts of Errion. Defendant by her acts and conduct made it possible for Errion, Holdorf Oyster Corporation and others to defraud plaintiffs and hence the loss should be borne by defendant.

2. As a matter of law, under the facts and circumstances, plaintiffs are entitled to judgment as prayed for in the complaint, for the reason the defendant was the party who made it possible for E. R. Errion to fraudulently obtain from the plaintiffs the sum of \$16,000.00 in payment for the note and mortgage executed and delivered by defendant and she is estopped from contending that the plaintiffs have no better title to the promissory note and

mortgage than their assignor in that it was the defendant who made it possible for E. R. Errion to obtain \$16,000.00 from these plaintiffs for the aforesaid note and mortgage.

3. The equities are with plaintiffs in that, Marguerite Connell, by executing the note and mortgage and placing them in the hands of her agent, E. R. Errion, gave him the power to defraud the plaintiffs, and because of her conduct, the law protects the plaintiffs, for under the doctrine of estoppel, when one of two innocent persons must suffer a loss, it must be borne by that one of them who, by his conduct, has rendered the injury possible.

4. E. R. Errion was employed by the defendant, Marguerite Connell, and was her agent to sell the real property, the subject matter of this litigation. He was to sell the same for \$36,000.00. Mrs. Connell had previously conveyed this property to the Holdorf Oyster Corporation, and it was agreed by Mrs. Connell and Errion that he would cause the Holdorf Oyster Corporation to convey the said real property back to Mrs. Connell, and they agreed that she simultaneously therewith would execute a note and mortgage in the amount of \$16,000.00 to the Holdorf Oyster Corporation. It was agreed by Mrs. Connell and Errion that she was to receive \$20,000.00 from the sale of the property and that Errion was to receive \$16,000.00. By her aforesaid conduct she placed it within the power of her agent to defraud an innocent purchaser, and the law will protect the latter.

5. The equities in this case are with plaintiffs for the following reasons:

That as appears in plaintiffs' Exhibit #4 (Findings of Fact in District Court Case No. 3556) in the year 1949, the defendant, based upon fraudulent representations of E. R. Errion and others, entered into divers business transactions with said E. R. Errion and others for which she expected substantial profit; that said transactions were carried on by her and Errion and others through the years 1949, 1950, 1951, 1952 and into the year 1953;

That prior to the execution of the note and mortgage herein, defendant had knowledge and was aware that many of the promises and representations of Errion and others had not materialized and defendant not having received the moneys and profits from said transactions which she had expected, and not having received any benefits from these transactions, demanded moneys from the said E. R. Errion on many occasions and commenced to doubt and was concerned about his honesty and integrity;

That prior to the execution of the note and mortgage at issue in this suit, defendant not having received moneys from Errion in accordance with their agreement, endeavored to borrow moneys upon a lease which Errion had procured for her and which he had represented she could borrow money upon; that defendant was unsuccessful in so doing and called same to his attention and called upon E. R. Errion for moneys.

That on July 12, 1951, defendant was vested by

E. R. Errion with the title to the real property, the subject matter of this suit; that thereafter, in order to raise moneys as demanded by defendant, she authorized him to sell her home for the sum of \$36,000.00, upon an agreement with E. R. Errion that she was to execute a note dated back to July 12, 1950, and a mortgage, and Errion would shortly thereafter sell said property and defendant would receive \$20,000.00 in cash and with the understanding that Holdorf Oyster Corporation would receive \$16,000.00 out of said sale.

That in pursuance of said plan Errion represented to defendant that a sale could be best made if he could represent to a prospective purchaser that the promissory note appear to be over a year old and one that would have to be paid in accordance with its terms. Defendant recognized this as a questionable transaction and despite Errion's previous broken promises, concurred with him in this plan and freely and knowingly executed said note and delivered same to him and thus placed same into commercial channels;

That E. R. Errion authorized by defendant to consummate a sale as aforesaid and in possession of said note and mortgage, fraudulently represented to the plaintiffs herein that said note was in all respects genuine and a valid obligation and that said mortgage was likewise in all respects genuine and a valid security to insure payment of said note and did, based upon such representation, sell, transfer, and assign said note and mortgage to the plaintiffs herein and was paid the sum of \$16,000.00;

That the defendant herein by all the aforesaid conduct placed it within the power of her agent, Errion, to defraud the plaintiffs who were innocent purchasers, who purchased without knowledge of the fraud, and if defendant was innocent in this transaction, the law will protect plaintiff under the circumstances for it was her conduct that made the injury to plaintiffs possible.

6. As appears from plaintiffs' Exhibit No. 4 (Findings of Facts in the U. S. District Court, case No. 3556), the defendant herein obtained a judgment against E. R. Errion and others, for a total amount of \$83,077.49. In determining the amount of said judgment, the Court considered the note and mortgage at issue in this case as a valid and existing obligation owing and outstanding by the defendant in so far as plaintiffs herein are concerned, and in so doing, rendered a money judgment accordingly, allowing the defendant full credit for the amount thereof; to wit: \$16,000.00 plus interest of \$4,314.68; that by reason thereof defendant is estopped and precluded from contending that said note and mortgage are not valid obligations owing to these plaintiffs, in that, to permit her to so do, would be tantamount to awarding her double indemnity.

7. The final judgment rendered in the case filed in the Superior Court of the State of Washington in and for the County of King, Civil No. 465 340, and the affirmance thereof by the Supreme Court of the State of Washington and the final judgment in Civil No. 3556 of the above-entitled Court, are not

res judicata so far as the issues in this case are concerned.

8. That the Court has jurisdiction over the subject matter and over the defendants William F. White and Janet D. White, husband and wife.

9. Deny all defendant's contentions.

* * * * *

Contentions of Defendant Marguerite L. Connell

As to plaintiffs' claim upon complaint:

1. That the judgment and findings of fact in that certain cause in the Superior Court of the State of Washington for the County of King in No. 465,340 are res adjudicata and binding upon plaintiffs and collaterally estop plaintiffs from introducing evidence or relitigating issues of fact and law therein determined.

2. As a matter of law upon admitted facts defendant Marguerite L. Connell is entitled to judgment dismissing said complaint with prejudice and costs because said note and mortgage was induced and procured from her by fraud of the payee and mortgagee thereof and plaintiffs as assignees have not better title thereto than their assignor which is no legal title whatsoever.

3. As a matter of law the equitable contention of estoppel in pais can not be asserted by plaintiffs to the non-negotiable note and mortgage fraudulently procured in the first instance from defendant Marguerite L. Connell by the assignor thereof.

4. That as a matter of law plaintiffs have the

burden of proving by a preponderance of the evidence their contention of estoppel in pais.

5. As a matter of fact no conduct on the part of defendant Marguerite L. Connell can rise to an estoppel in pais against her from asserting that plaintiffs' title to said note and mortgage is no greater than the title of their assignor which has no title because of assignor's fraud.

6. That as a matter of fact plaintiffs cannot urge the contention of estoppel in pais (or whatever else plaintiffs choose to call it) because plaintiffs themselves acting by and through plaintiff Einar Glaser did not act in good faith and/or exercise due diligence when they took the assignment of said note and mortgage from Holdorf Oyster Corporation in that:

(a) At or prior to receiving said note and mortgage plaintiffs made no inquiry or investigation whatsoever concerning Mrs. Marguerite L. Connell; the value or title to the property covered by the mortgage; whether or not Marguerite L. Connell had paid anything on account of principal or interest on said note or was able to do so; or the status of Holdorf Oyster Corporation and its relationship with E. R. Errion or the character or reputation of E. R. Errion with whom plaintiffs dealt in connection with said note and mortgage; or how or for what consideration or purpose E. R. Errion and/or Holdorf Oyster Corporation had gotten the note and mortgage in the first instance.

(b) At or prior to receiving said note and mort-

gage plaintiffs obtained no title report or title insurance policy covering title to said real property and validity of said mortgage as a lien thereon.

(c) At or prior to receiving said note and mortgage plaintiffs have never seen the real property nor met or talked with Marguerite L. Connell nor did they view, visit or otherwise inspect said real property covered by said mortgage; secure any appraisements as to its value or ascertain that said real property was the home of Marguerite L. Connell and that she was at the time living in it.

(d) At time of receiving said note and mortgage plaintiffs knew that the maker thereof Marguerite L. Connell was in default as to payment of interest provided therein and made no investigation as to reason therefor or whether or not real property taxes on the real property were also delinquent.

(e) Plaintiffs received said note without securing a valid endorsement of Holdorf Oyster Corporation to whose order the note was payable and has never since undertaken to secure a proper endorsement.

(f) Plaintiffs acquired the note and mortgage to hold same temporarily for E. R. Errion, the primary person engaged in the scheme to defraud Marguerite L. Connell.

(g) Plaintiffs were delivered the assignment of mortgage from Holdorf Oyster Corporation by Dwight Holdorf its president, but without the promissory note. The promissory note either before or thereafter was received from E. R. Errion. All

negotiations for the transaction was with E. R. Errion; not any officer of the Holdorf Oyster Corporation.

(h) Plaintiffs paid \$16,000.00 by a series of certified or bank checks made payable to Holdorf Oyster Corporation with intent and for the purpose of accommodating and loaning money to E. R. Errion and not to purchase or invest in said note and mortgage. That the \$16,000.00 was never received by the Holdorf Oyster Corporation, but deposited in another bank account and used for the benefit of E. R. Errion.

(i) That plaintiffs' lack of good faith and due diligence in acquiring said note and mortgage is further inferred from the fact that they made no demand upon Marguerite L. Connell for payment of either the delinquent interest or the principal until two years and four months after acquiring same and then plaintiffs' demand was for the full sum; a demand that could have been made at the time of first acquiring said note and mortgage.

(j) That plaintiffs' lack of good faith and due diligence in acquiring said note and mortgage is further inferred from the fact that plaintiffs did not make demand or bring an action to foreclose upon said real property until after December 16, 1953; until after Marguerite L. Connell had on or about August 28, 1953 commenced an action for fraud against plaintiffs, E. R. Errion, Holdorf Oyster Corporation and others in the above-entitled Court in Civil No. 3556; and until after the said

E. R. Errion called Einar Glaser on a telephone and ordered him to commence action to foreclose against Marguerite L. Connell to retaliate for the fraud action in the first instance brought by Marguerite L. Connell.

(k) Otherwise acted in bad faith and without due diligence and gave little heed to it at time of taking said note and mortgage.

(l) That at no time did Holdorf Oyster Corporation deliver, endorse-over or assign the promissory note in question nor did it receive any consideration for doing so. It did, however, receive \$16,000.00 for the said E. R. Errion.

7. That as a matter of law plaintiffs cannot prosecute this action to foreclose upon said promissory note and mortgage in that they are at most assignees thereof; having obtained the same from Holdorf Oyster Corporation, their assignor which was a Washington corporation and which at all relevant times and prior thereto was doing business in the State of Oregon in securing said note and mortgage from defendant in the first instance at Portland, Oregon; in assigning said note and mortgage to plaintiffs in the State of Oregon; in negotiating and purchasing real property in the State of Oregon; and otherwise doing business in said state without having qualified to do business as a foreign corporation in said state and doing such business unlawfully and in violation of the statutes of the State of Oregon.

8. Denies all contentions of the plaintiffs.

* * * * *

The foregoing pretrial order has been approved by the parties hereto, as evidenced by the signatures of their counsel hereon, and this order is hereby entered, as a result of which the pleadings pass out of the case, and this pretrial order shall not be amended except by Order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

Dated at Seattle, Washington this 6th day of August, 1957.

/s/ GEO. H. BOLDT,

United States District Judge.

Form Approved:

/s/ NORMAN B. KOBIN,

Of Attorneys for Plaintiffs.

/s/ WILLIAM F. WHITE,

Of Attorneys for Defendant

Marguerite L. Connell.

[Endorsed]: Filed August 6, 1957.

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-entitled cause having come on regularly for trial before the above-entitled Court sitting without a jury on August 12, 1957; plaintiffs appearing in person and being represented by Wayne Wright, Esq., Leo Levenson, Esq. and Norman B. Kobin, Esq., defendant Marguerite L. Connell appearing in person and being represented by William F. White, Esq., of White, Sutherland &

White and Malcolm S. McLeod; defendant William F. White and Janet D. White sued as William S. White and Jane Doe White, not appearing; the Court having heard and considered evidence both oral and documentary; admitted facts in the pre-trial order; contention of the parties in the pre-trial order; briefs and oral argument on behalf of the respective parties it now makes its:

Findings of Fact on Plaintiffs' Complaint

1. That the plaintiffs, Einar Glaser and Dorothy Glaser were and are residents and citizens of the State of Oregon; that defendant, Marguerite L. Connell was and is a resident and citizen of the State of Washington; that defendant, William F. White and his wife, Janet D. White, were and are residents and citizens of the State of Oregon; that the last named defendants were served summons and complaint in this cause at Portland, Oregon and have not appeared in said cause and that only in rem relief was sought by plaintiffs against them; that the amount in controversy between plaintiffs and defendants, exclusive of costs and interest is in excess of \$3,000.00.

2. That defendant, Marguerite L. Connell, is a widow and the owner and in possession of residential real property located at 2812 Mt. St. Helens Place, Seattle, Washington, and situated in King County, Washington as described in both the complaint and the mortgage herein involved and being as follows:

“Lots 2 and 3, Block 51, of Mount Baker Park,

an Addition to the City of Seattle, according to plat recorded in Volume 16 of Plats, page 3, records of King County, situated in the City of Seattle.”

3. That the certain promissory note dated July 12, 1950 in face amount of \$16,000 (Pl. Ex. 1) as referred to in paragraph III of plaintiffs’ complaint was executed by defendant Marguerite L. Connell at Portland, Oregon, during the month of July, 1951. That the mortgage dated July 12, 1950, (Pl. Ex. 2) as referred to in paragraph IV of plaintiffs’ complaint was executed by defendant, Marguerite L. Connell, at Portland, Oregon during the month of July, 1950 or July 1951. That the execution and delivery of each and both of said promissory note and mortgage by defendant, Marguerite L. Connell, was induced and procured by fraud practiced upon her by the acts of Holdorf Oyster Corporation, the original payee and mortgagee, and others. That at all relevant times, Holdorf Oyster Corporation was a Washington corporation which negotiated and purchased real property in the State of Oregon and negotiated and executed the transaction involved in this case with both plaintiffs and defendants during a time it was never qualified to do business therein and in violation of the laws of the State of Oregon. That at all relevant times, Holdorf Oyster Corporation was the alter ego of E. R. Errion.

4. That said mortgage (Pl. Ex. 2) was recorded August 14, 1951 in the office of the King County

Auditor, Seattle, Washington in Volume 2853 of Mortgages at page 521. That on or about September 12, 1951 a written assignment of said mortgage to the plaintiffs herein dated August 8, 1951 (Pl. Ex. 3) was recorded with the King County Auditor, Seattle, Washington in Volume 2862 of Mortgages at page 146.

5. That defendant, Marguerite L. Connell, has never paid any money whatsoever on account of said note and mortgage. That the first demand by plaintiffs for payment of said note and mortgage was made by letter on December 16, 1953 and prior thereto neither plaintiffs nor defendant, Marguerite L. Connell, had any contact or communication with the other. Defendant, Marguerite L. Connell, did not realize she had executed a mortgage on said real property and she did not know such mortgage had been assigned to plaintiffs until much later. That defendant, Marguerite L. Connell, did know she had executed and delivered to E. R. Errion the said promissory note in July of 1951, but did not know it had been assigned to Einar Glaser contrary to representation of E. R. Errion until much later.

6. That plaintiffs exercised complete indifference and neglect and did not act in good faith at the time they voluntarily purchased said note and mortgage from E. R. Errion in August of 1951 paying \$16,000.00 to Holdorf Oyster Corporation for the benefit of E. R. Errion. Plaintiffs relied upon other transactions with E. R. Errion and not said mortgage to secure repayment of their loan to E. R.

Errion. That plaintiffs did not procure a valid endorsement of the payee of said note at time they acquired it from E. R. Errion. Prior to or at time of acquiring said note and mortgage, plaintiffs knew the note was in default as to the payment of the first year's interest. At said time, plaintiffs made no inquiry or investigation as to title, taxes or ability of Marguerite L. Connell to pay said note when due. E. R. Errion fraudulently misrepresented said note and mortgage to plaintiff by representing it was a valid note and mortgage, knowing at the time he had procured the same by fraud which he had practiced upon the defendant. Defendant, Marguerite L. Connell, was at all relevant times living upon said real property which plaintiffs knew.

7. That plaintiffs hold said note and mortgage as mere assignees and not as holders in due course. That plaintiffs have no legal title to said note and mortgage as such instruments in the first instance were induced and procured from defendant, Marguerite L. Connell, by fraud practiced upon her by E. R. Errion and Holdorf Oyster Corporation, although at the time plaintiffs acquired possession of said note and mortgage they did not have actual knowledge of the fraud practiced upon defendant, Marguerite L. Connell, by plaintiffs' assignors.

8. That defendant at no time conducted herself by any acts or omissions so as to mislead or prejudice plaintiffs as would estop her from asserting as a defense to said note and mortgage that each and

both were induced and procured from her by fraud practiced upon her by plaintiffs' assignors, but defendant was negligent in executing the note and mortgage and delivering such to E. R. Errion.

9. Incorporated by reference in these findings are the complaint, answer of Glasers, tendered findings of fact, signed findings of fact and conclusions of law, judgment and order of dismissal as to defendants Glasers and judgment for plaintiff and against defendants other than the Glasers in amount of \$83,077.48 and costs in Civil Action No. 3556 of the above-entitled Court.

10. That in the afore-mentioned action Civil No. 3556 the defendant herein as plaintiff therein obtained a judgment against E. R. Errion and others not including the plaintiffs in this action in total amount of \$83,077.49. Included in said award of damages for fraud was considered the sum of \$16,000.00 being the principal amount of the promissory note herein and \$4,314.68 being the amount of interest due on said note at time of said judgment. That said judgment in amount of \$83,077.49 has not been satisfied save to extent of \$5,747.57.

11. Incorporated in these findings by reference are the complaint, answer, findings of fact and conclusions of law, opinion of the trial judge and judgment in that certain civil action brought by these plaintiffs against this defendant in the Superior Court of the State of Washington for the County of King, No. 465,340 and the opinion of the Supreme Court of the State of Washington in the

same said case as reported in 47 Wn 2d. 622, 289 P2d 364.

12. The plaintiffs voluntarily paid the sum of \$518.05 on account of delinquent taxes on said real property in September, 1955 in order to prevent a tax foreclosure; that defendant Marguerite L. Connell during the month of September, 1956 voluntarily paid \$525.08 on account of delinquent real property taxes in order to prevent a tax foreclosure.

Findings of Fact On Defendant's Counterclaim

1. That Marguerite L. Connell is a resident and citizen of the State of Washington and plaintiff Einar Glaser is a resident and citizen of the State of Oregon.

2. That National Forest Products Corporation was a corporation organized under the laws of the State of Washington on June 21, 1948, and at all relevant times was the alter ego of one E. R. Errion.

3. That Einar Glaser executed and delivered Defendant's Exhibit No. 4 to National Forest Products Corporation in Portland, Oregon, on March 17, 1952, and on the same date received \$20,000.00 from National Forest Products Corporation.

4. That Defendant's Exhibit No. 4, the purported promissory note was not a valid and subsisting obligation of Einar Glaser, and was not given for any valuable consideration. It was given by Einar Glaser as an acknowledgment of the receipt of

some of his moneys which were being held by National Forest Products Corporation in trust or otherwise for the use and benefit of Einar Glaser. The purported note was held by National Forest Products Corporation only upon the condition that same would be treated as a receipt for moneys belonging to Glaser and would be returned to him upon settlement of a partnership dispute then existing between Einar Glaser and his partner, McKenney.

5. That Defendant's Exhibit No. 4 was obtained from Einar Glaser upon the fraudulent and false representations of Errion; that same would be retained in Errion's possession; that same would be treated merely as a receipt of money due and belonging to Glaser and said Exhibit No. 4 would be retained in the possession of National Forest Products Corporation and would be cancelled and rendered void upon the settlement of the partnership dispute. Based on said representations, Einar Glaser executed said exhibit and was at all times led to believe and was informed that same had been cancelled and destroyed. No demand for payment was ever made upon Einar Glaser for payment until the demand of defendant.

6. That although hereafter Defendant's Exhibit No. 4 was endorsed in blank, it was not negotiated to Dwight Holdorf but rather was held by E. R. Errion and was subsequently wrongfully converted or misappropriated by Dwight Holdorf.

7. Dwight Holdorf did not pay any consideration

whatsoever for said note, nor did he take same as security for any obligation owing to him by National Forest Products Corporation or E. R. Errion in that National Forest Products Corporation nor E. R. Errion was indebted to Dwight Holdorf in any amount.

8. Defendant did not pay a valuable consideration or any consideration for said note, but merely took same conditionally and for collection purposes with the understanding that if she would collect any money thereon she would credit the net proceeds thereof to the judgment which she had obtained against E. R. Errion, Dwight Holdorf and others in U. S. District Court No. 3556.

9. That defendant at all times was fully aware of the background of Errion and Holdorf and that they had the general reputation of cheaters and defrauders and were confidence men, and had swindled her and others, and when Exhibit No. 4 was delivered to her in July, 1955 she had previously obtained a fraud judgment against Errion, Holdorf and their conspirators, and in so taking said exhibit she did so in bad faith and for collection purposes only and with full knowledge of the chicanery and frauds practiced by E. R. Errion and Dwight Holdorf for many years. She further took same with full knowledge that the U. S. District Court for the District of Washington, Western District, Northern Division had exonerated the plaintiffs from participating in any wrongdoings of Errion and Holdorf, et al.

10. Dwight Holdorf was the president of National Forest Products Corporation and had actual knowledge of all the conditions upon which Exhibit No. 4 was delivered and he participated in the fraud and chicanery practiced upon Einar Glaser in obtaining his signature thereto.

11. That Dwight Holdorf actively participated and conspired with E. R. Errion in their fraudulent schemes practiced upon the plaintiffs and the defendant and upon many other individuals.

12. That during all relevant times National Forest Products Corporation was a corporation organized under the laws of the State of Washington, and was engaged in transacting business in the State of Oregon and maintained a business office therein, and while so transacting business in the State of Oregon did not comply with the Statutes of the State of Oregon in order to qualify to transact business in the State of Oregon, and it never did qualify;

That the writing upon which defendant's counterclaim is based was executed in and was payable in the State of Oregon as part of business transactions carried on by National Forest Products Corporation in the State of Oregon;

That National Forest Products Corporation, not having qualified to transact business in the State of Oregon, and the writing being executed in and payable in the State of Oregon as a part of the transaction of business by National Forest Products Corporation, was void and invalid.

13. That defendant, as plaintiff, commenced an action in the United States District Court for the District of Oregon, Civil No. 8184, on or about the 18th day of July, 1955, upon the promissory note alleged in her counterclaim; that the judgment of dismissal, as entered in said cause by the Honorable Gus J. Solomon, in res judicata to all matters set forth in defendant's counterclaim.

Conclusions of Law

As to plaintiffs' complaint the defendants, Marguerite L. Connell and William F. White and his wife Janet D. White are entitled to a judgment dismissing said complaint, denying foreclosure and declaring void as a lien or encumbrance upon the real property of defendant, Marguerite L. Connell, that certain note and mortgage as described in plaintiffs' complaint, without costs.

As to the counterclaim (cross complaint) of defendant, Marguerite L. Connell against plaintiff Einar Glaser the said plaintiff, Einar Glaser is entitled to a judgment dismissing said counterclaim (cross complaint) and denying same but without costs.

Dated, November 15, 1957.

/s/ GEO. H. BOLDT,

Judge of the U. S. District
Court.

Findings on Counterclaim submitted by

/s/ NORMAN KOBIN,

Of Attorneys for Plaintiffs.

Findings on Complaint submitted by
/s/ WILLIAM F. WHITE,
Of Attorneys for Defendant,
Marguerite L. Connell.

[Endorsed]: Filed November 15, 1957.

In The United States District Court, Western
District of Washington, Northern Division

Civil No. 4199

EINAR GLASER and DOROTHY GLASER, his
wife, Plaintiffs,
vs.

MARGUERITE L. CONNELL, a widow, and
WILLIAM S. WHITE and JANE DOE
WHITE, his wife, Defendants.

JUDGMENT

The above-entitled cause having come on regularly for trial before the above-entitled Court sitting without a jury on August 12, 1957; plaintiffs appearing in person and being represented by Wayne Wright, Esq., Leo Levenson, Esq. and Norman B. Kobin, Esq., defendant Marguerite L. Connell appearing in person and being represented by William F. White, Esq., and Malcolm S. McLeod, Esq.; defendants William F. White and Janet D. White sued as William S. White and Jane Doe White, not appearing; the Court having heard and considered evidence both oral and documentary;

admitted facts in the pre-trial order; contentions of the parties; briefs and oral argument and further the Court having made and entered its Findings of Fact and Conclusions of Law as to both the action set forth in plaintiffs' complaint and the action set forth in the counterclaim (cross complaint) of defendant, Marguerite L. Connell against plaintiff, Einar Glaser and good cause appearing;

It Is Hereby Ordered, Adjudged and Decreed that plaintiff's complaint be dismissed and that defendants, Marguerite L. Connell and William F. White and his wife, Janet D. White, sued herein as William S. White and Jane Doe White, have judgment declaring to be invalid and void as a lien of encumbrance upon that certain real property of defendant, Marguerite L. Connell, situated in King County, Washington and described as:

"Lots 2 and 3, Block 51, of Mount Baker Park, an Addition to the City of Seattle, according to plat recorded in Volume 16 of Plats, page 3, records of King County, situated in the City of Seattle."

that certain promissory note dated July 12, 1950 in face amount of \$16,000.00 together with that certain mortgage dated July 12, 1950 to secure said note as described and recorded August 14, 1951 in the office of the King County Auditor, Seattle, Washington in Volume 2853 of Mortgages at page 521 together with the assignment of said mortgage as recorded in the same office as the mortgage but in Volume 2862 Mortgages at page 146.

It Is Further Ordered, Adjudged and Decreed that the plaintiff, Einar Glaser, have judgment against defendant, Marguerite L. Connell, dismissing the counterclaim (cross complaint) of said defendant against said plaintiff.

It Is Further Ordered, Adjudged and Decreed that both plaintiffs and defendants each bear their own costs.

Dated, November 15, 1957.

/s/ GEO. H. BOLDT,
U. S. District Court Judge.

Approved as to form:

/s/ NORMAN KOBIN,
Of Attorneys for Plaintiff.
/s/ WILLIAM F. WHITE,
Of Attorneys for Defendant.

[Endorsed]: Filed and Entered November 15, 1957.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that Einar Glaser and Dorothy Glaser, plaintiffs, hereby appeal to the United States Court of Appeals for the Ninth Circuit, from that part of the final Judgment entered in this action and proceedings on November 15, 1957 reading as follows:

“It Is Hereby Ordered, Adjudged and Decreed

that plaintiffs' complaint be dismissed and that defendants, Marguerite L. Connell and William F. White and his wife Janet D. White, sued herein as William S. White and Jane Doe White, have judgment declaring to be invalid and void as a lien of encumbrance upon that certain real property of defendant, Marguerite L. Connell, situated in King County, Washington and described as:

“Lots 2 and 3, Block 51, of Mount Baker Park, an Addition to the City of Seattle, according to plat recorded in Volume 16 of Plats, page 3, records of King County, situated in the City of Seattle.”

that certain promissory note dated July 12, 1950 in face amount of \$16,000.00 together with that certain mortgage dated July 12, 1950 to secure said note as described and recorded August 14, 1951 in the office of the King County Auditor, Seattle, Washington in Volume 2853 of Mortgages at page 521 together with the assignment of said mortgage as recorded in the same office as the mortgage but in Volume 2862 Mortgages at page 146.”

Dated this 16th day of December, 1957.

EINAR GLASER,
DOROTHY GLASER,

/s/ By LEO LEVENSON,
/s/ NORMAN B. KOBIN,
/s/ WAYNE W. WRIGHT,
Attorneys for Plaintiffs.

[Endorsed]: Filed December 16, 1957.

[Title of District Court and Cause.]

STATEMENT OF POINTS ON WHICH APPELLANTS RELY ON THE APPEAL

Appellants submit the following points upon which they intend to rely on the appeal herein, as follows:

I.

The Court erred in not entering a decree in favor of appellants for the foreclosure of their mortgage.

II.

The Findings of Fact and Judgment in Case No. 3556, and thereafter appealed to the United States Court of Appeals, for the Ninth Circuit, No. 14,797, and decided August 10, 1956, is *res judicata* and estops respondent from relitigating said issues in this case at bar.

III.

That in determining the amount of the judgment in Case No. 3556, (paragraph II above) the Court in that case considered the note and mortgage at issue in this case at bar as a valid and existing obligation owing and outstanding by respondent Connell insofar as appellants are concerned, and in so doing, the Court rendered a money judgment allowing respondent full credit for the amount of appellants' note and mortgage. By reason thereof, respondent is estopped in this case at bar from claiming the note and mortgage are not valid obligations.

IV.

That appellants and respondent Marguerite L. Connell are innocent victims. Each was defrauded by the acts of E. R. Errion, Holdorf Oyster Corporation, and others, but by reason of the acts and conduct of respondent Connell, she should bear the loss caused by the fraud of Errion and others.

V.

Respondent in executing the note and mortgage and placing them in the hands of E. R. Errion, made him her agent. By doing so, he was given the power by respondent to defraud appellants. Because of respondent's aforesaid conduct, the law protects appellants under the doctrine of estoppel. When one of two innocent persons must suffer a loss, it must be borne by that one of them who, by his conduct, has rendered the loss possible.

/s/ LEO LEVENSON,

Of Attorneys for Appellant.

Acknowledgment of Receipt of Copy Attached.

[Endorsed]: Filed December 18, 1957.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

United States of America,
Western District of Washington—ss.

I, Millard P. Thomas, Clerk of the United States District Court for the Western District of Washington, do hereby certify that pursuant to the pro-

visions of Subdivision 1 of Rule 10 of the United States Court of Appeals for the Ninth Circuit and Rule 75 (c) FRCP and designation of counsel, I am transmitting herewith the following original documents in the file dealing with the above action, including exhibits, as the record on appeal herein to the United States Court of Appeals for the Ninth Circuit at San Francisco, said papers and documents being identified as follows:

14. Pre-Trial Order, filed Aug. 6, 1957.

19. Findings of Fact and Conclusions of Law, filed Nov. 15, 1957.

20. Judgment, filed Nov. 15, 1957.

18. Objections to Findings of Fact and Conclusions of Law Proposed by Defendant Connell, filed Sept. 3, 1957.

21. Notice of Appeal filed by Plaintiffs, Dec. 16, 1957.

22. Bond for Costs on Appeal, filed 12/16/57. (Plaintiffs.)

23. Notice of Appeal by cross-complainant Connell, filed 12/16/57.

25. Bond for Costs on Appeal, (Connell), filed 12/16/57.

26. Plaintiffs' Designation of Contents of Record, filed 12/18/57.

27. Statement of Points on Which Appellants Rely on Appeal, filed 12/18/57.

29. Order Directing Transmission of Original Exhibits, filed 12/18/57.

30. Order Extending Time for filing record on appeal to Mar. 17, 1958, filed Jan. 9, 1958.

31. Court Reporter's Transcript of Proceedings, filed Feb. 20, 1958.

Plaintiffs' Exhibits 1 to 14, inclusive, and Defendant Exhibits A to J, inclusive, K-1, K-2, K-3, K-4, L, M and N.

I further certify that the following is a true and correct statement of all expenses, costs, fees and charges incurred in my office by or on behalf of appellant and cross-appellant for preparation of the record on appeal in this cause, to-wit: Filing fee, Notice of Appeal, Appellants, \$5.00; Filing fee, Notice of Appeal, Cross-Appellant, \$5.00, and that said amounts have been paid to me by counsel for the respective parties.

Witness my hand and official seal at Seattle this 27th day of February, 1958.

[Seal]

MILLARD P. THOMAS,
Clerk,

/s/ By TRUMAN EGGER,
Chief Deputy.

In The District of the United States, Western
District of Washington, Northern Division

No. 4199

EINAR GLASER and DOROTHY GLASER, his
wife, Plaintiffs,
vs.

MARGUERITE L. CONNELL, a widow, and
WILLIAM S. WHITE and JANE DOE
WHITE, his wife, Defendants.

TRANSCRIPT OF PROCEEDINGS

Transcript of Proceedings of the above-entitled
and numbered cause in the above-entitled court be-
fore the Honorable George H. Boldt, United States
District Judge, commencing on Monday, August
12, 1957, at the United States Courthouse, Seattle,
Washington.

Appearances on behalf of the Plaintiffs: Mr.
Wayne W. Wright, Attorney at law, 455 Olympic
National Bldg., Seattle, Washington. Mr. Leo Lev-
enson, Attorney at law, 1002 Portland Trust Bldg.,
Portland, Oregon. Mr. Norman B. Kobin, Attor-
ney at law, 314 Portland Trust Bldg., Portland,
Oregon. [1] On behalf of the Defendants: Mr.
Malcolm McLeod, Attorney at Law, 861 Dexter
Horton Bldg., Seattle, Washington. Mr. William
F. White, White, Sutherland & White, Attorneys
at law, 1100 Jackson Tower, Portland, Oregon.

Also appeared: Mr. Byron E. McClanahan, Mason County Prosecuting Attorney, Mason County Courthouse, Shelton, Washington. [2]*

* * * * *

MARGUERITE L. CONNELL

called as a witness on behalf of the plaintiffs, being first duly sworn, was examined and testified as follows:

The Clerk: Will you please state your full name and spell your last?

The Witness: Marguerite L. Connell, C-o-n-n-e-l-l.

Direct Examination

Q. (By Mr. Kobin): You are Marguerite Connell? A. I am.

Q. And where do you live, Mrs. Connell?

A. 2812 Mt. St. Helen's Place.

Q. Seattle, Washington?

A. Seattle, Washington.

Q. Mrs. Connell, if there might be a question that I put to you which you don't readily understand or fully understand, would you please call it to my attention rather than to respond, and I will attempt to reframe the question so that we will both understand each other.

A. Thank you.

Q. And if there is any question which you do not hear in full, Mrs. Connell, you indicate such, will you please? [5] A. Yes.

Q. Prior to 1949, Mrs. Connell, you owned vari-

* Page numbers appearing at top of page of Reporter's Transcript of Record.

(Testimony of Marguerite L. Connell.)

ous real properties and securities and other personal property, did you or did you not?

A. I did.

Q. And these properties are the same properties which were in issue in the Federal Court case that we have talked about in this matter?

A. That's right.

Q. And these are the same properties that Mr. Errion swindled you out of? A. That's right.

Q. Pardon? A. It is, yes.

Q. Mrs. Connell, you have on several occasions given testimony by deposition not only in this case but in other proceedings? A. I have.

Q. And from time to time we will refer to these depositions. A. Yes, sir.

Q. When did you first meet Mr. E. R. Errion?

A. In the spring of '49.

Q. How did you happen to meet Mr. Errion in the spring of 1949?

A. Christmastime I spent the month, best part of the month, [6] with my daughter and her husband in Portland, and a friend of the family for years, Grace Reed, told me that she had a friend who could help me sell. She had been up visiting me here—help me sell that, and that man was Mr. Davenport, she introduced to me and the family, and we all had coffee together, and he sent—what's his name—Errion up here to help me sell my couple of old big houses that I hadn't been able to sell.

Q. So you had two pieces, two big old houses in Seattle that you wanted to sell? A. Yes.

(Testimony of Marguerite L. Connell.)

Q. And this man sent Mr. Errion up to Seattle to sell those houses for you?

A. Well, that was supposed to be what he came for. At least, he told me that.

Q. And you wanted to sell those houses?

A. Yes.

Q. And you were willing—if he could sell them, that would be satisfactory with you?

A. He said he was a real estate man and his partner was.

Mr. Kobin: Miss Reporter, would you read the last question? If you will listen to the question, Mrs. Connell, and respond directly to the question. If you care to explain it, fine.

(Question read by reporter.) [7]

The Witness: Yes.

Q. (By Mr. Kobin): Now, when he started to talk to you about these Coos Bay properties, that was how long afterwards, Mrs. Connell, after you first met Mr. Errion?

A. Probably a day or so.

Q. A day or so after you first met him?

A. About Errion you are talking?

Q. Then he started to talk to you about the Coos Bay properties? A. No.

Q. When did that come up? Would this help you—that was several months later?

A. Yes, months later.

Q. During the interim, was he trying to sell the properties for you but he wasn't getting anywhere, is that correct? A. Correct.

(Testimony of Marguerite L. Connell.)

Q. And you had visited with him many, many times during that interim and discussed the possibilities of selling your properties for you during that interim? A. Yes.

Q. Your answer is yes? A. Yes.

Q. Did Mr. Errion represent to you, Mrs. Connell, that he was a realtor?

A. Yes, I had that impression. [8]

Q. And based upon that, from the fact that he was a realtor—you got that impression—you wanted him to act as such for you?

A. Yes, with some reservations.

Q. You made a conveyance ultimately of these properties to Mr. Errion, did you not?

A. Yes.

Q. And in return you received some deeds to some property, supposedly oyster property down in Coos County, Oregon? A. Yes.

Q. Did you convey the property that is at issue in this case, your residence property, to Mr. Errion back in 1949? A. I did.

Q. And was that in October of 1949?

A. I suppose. It was the end of September, in October. It took time.

Q. Previous to the time that you requested Mr. Errion to sell your home in Seattle, your properties in Seattle, had you had other realtors working during—effecting the sale of those properties?

A. I had.

Q. Pardon? A. Yes.

Q. From 1949, and I think it was in October

(Testimony of Marguerite L. Connell.)

approximately, [9] Mrs. Connell, of 1949, through July of 1951, was the legal title to that property in your name or in one of Errion's corporation's names. A. What time, please?

Q. Between October of 1949 when you deeded the property until July of 1951, was the Seattle property that you had in your name or in one of Mr. Errion's corporations?

A. In Errion's corporation.

Q. You had already deeded the property, the legal title, to Mr. Errion? A. Yes.

Q. Now, between 1949 and July of 1951, were you in constant contact with the Errion bunch?

A. Yes.

Q. And just generally, Mrs. Connell, what did those—what were the purpose of these contacts? Were you discussing these business transactions or were they social?

A. Most of the time I was trying to get money out of him.

Q. Between 1949, then, and July of 1951, most of the occasions for your contacting Mr. Errion was to get money from him, is that correct?

A. Yes.

Q. In other words, many of the promises, Mrs. Connell, that he had made to you didn't come about, isn't that right? A. Yes. [10]

Q. And you were continuously after him for money between that time, is that right?

A. That's right.

Q. Now, in 1950, didn't you tell Mr. Errion that

(Testimony of Marguerite L. Connell.)

you needed \$20,000 badly because you wanted to buy another home? A. I wanted to buy what?

Q. Did you tell Mr. Errion in 1950 or the early part of 1951 that you would like to have \$20,000 so that you could purchase another home?

A. That's right.

Q. And did you have that discussion with him on several occasions? A. Yes.

Q. Did he eventually agree to get that \$20,000 for you? A. Yes.

Q. Now, previous to that time, Mrs. Connell, and while you were talking about this \$20,000, didn't Mr. Errion tell you that he was handling a large logging deal down in the State of Oregon?

A. Yes.

Q. And how did the name of Glaser or Einar or McKinney first come about in your conversations? [11]

* * * * *

Q. (By Mr. Kobin): When, if ever, Mrs. Connell, did you first find out or hear the name of Einar or Glaser or McKinney?

A. I don't remember hearing the names but probably I did because he mentioned names occasionally, but he didn't tell me those people were buying my property, any of those names that you are talking about.

Q. When did you first hear the names?

A. Of Einar Glaser?

Q. Yes.

A. When a realty man—after Bob Errion had

(Testimony of Marguerite L. Connell.)

refused, had not sold my property, and I was disgusted—the fact that this man didn't show up who was to have bought it. I began trying to sell it here, because it was expensive, and I was alone, so I put it in the hands again of a realty company, and a young man who I had known for years said he would try to sell it for me. He goes down to the recording office, and he comes back and tells me that there is a mortgage on my place, which was the first I ever heard the name of Einar Glaser.

Q. That was the first time? [12]

A. That I knew of. That is the first time I have any memory of it.

Q. That is when you had, when you went down—strike that, Miss Reporter.

Counsel, would you care to say something?

Q. (By Mr. Kobin): Mrs. Connell, I am going to refer to a deposition which you gave before Glen W. Walston, a notary public, and an official court reporter in this state and county, on the 23rd day of February, 1954, and this was a deposition of Mrs. Connell that was taken of you by Mr. Wayne Wright who was representing Mr. and Mrs. Glaser.

A. What year was that?

Q. 1954. A. Yes. All right.

Q. I will ask you, Mrs. Connell, whether or not you recall the following questions being put to you and the following reponses made:

“Question: And did either Mr. or Mrs. Holdorf or Mr. or Mrs. Errion ever make any representa-

(Testimony of Marguerite L. Connell.)

tions at all with respect to Dorothy Glaser and Einar Glaser, Mrs. Connell?

Answer: No, except this. I heard Bob Errion say that he was handling a big logging business, that there were 55 heirs, and among them was a man by the name of Einar. I can't remember, but it must have been a man by [13] the name of McKinney, and he mentioned some others.

Question: When was that?

Answer: Oh, in 1950 or in early 1951."

Now, do you recall that testimony, Mrs. Connell?

A. If you have a record there, it must be true. I don't remember.

Q. In other words, if the record here—the record is correct? A. Yes.

Q. Is that your answer?

A. (Nodding in affirmative.)

* * * * *

Q. (By Mr. Kobin): Now, Mrs. Connell, I also refer you to a deposition which was taken at the request of your attorney to perpetuate your testimony on Monday, July 23, 1956, at the offices of your attorney, Mr. William White in Portland, Oregon, before Clifford R. Waits, likewise a notary public and a court reporter residing in Portland in the County of Multnomah and State of Oregon.

Mr. White: This is one of the exhibits, isn't it?

Mr. Kobin: No.

Q. (By Mr. Kobin): And these are the questions, Mrs. Connell, that were put to you by your attorney, Mr. White, in this deposition. The ques-

(Testimony of Marguerite L. Connell.)

tion Mr. White asked you—he was talking about this house——

“Question: What did Mr. Errion say to induce you to sign the note down there in Portland? What did he tell you?

Answer: He told me he would put it back in my name and sell it.

Question: Put what back in your name?

Answer: The house I live in. I said, “Why don’t you sell it and give me the 20 thousand I want,” and he said, “No, it would look better if they get it from an individual person,” and he said, “You will pay me 16 thousand, and I will get you 20.”

Question: Did he say anything as to whether or not he had a buyer?

Answer: Yes, certainly.

Question: What did he say?

Answer: He said this man was a wealthy logger, and his grandfather had bought all of this property many, many years before, and his two older sons were ready for [15] the University. They wanted to go to the University of Washington, and he had a family of six children, I remembered the number, and the others would go to some high school and some grammar school, and he said, “He wants a property that will take care of the family, and they can go to the school if they want to,” and I said, “Why don’t they buy it from you,” and he said, “It will be better if they buy it from you.”

Question: Did he say who the man was?

(Testimony of Marguerite L. Connell.)

Answer: I suppose he did, but I don't remember. I know it was a man with a lot of interest in logging.

Question: Did you understand he was going to try to sell the property or had a buyer?

Answer: He said he had a buyer, and it would be consummated in two or three months at the very longest, and I would have to vacate. I said, "Give me two or three months. I don't want to move and put my own back out." He said no, he won't. "I will make it go."

Question: Did he say if he was straightening out his business deal?

Answer: Yes, he was straightening out his affairs and all the heirs. I think one had not signed."

Now, do you recall that testimony that you gave in response?

A. I don't recall that testimony, but that is true. [16]

Q. Mrs. Connell, the home that you have, it's a large-type home, is it not?

A. What's the question?

Q. It's a real big house, this house that is involved here?

A. Supposed to have 27 rooms if you want to know, and they didn't count bathrooms.

Q. Mrs. Connell, were you collecting antiques at the time?

Mr. White: Your Honor, pardon me——

A. May I tell you that I haven't collected an antique in 15 or 20 years.

(Testimony of Marguerite L. Connell.)

Q. (By Mr. Kobin): But you have antiques at the house?

A. I lived in China nearly 40 years, and I collected over there.

Q. Getting back to this \$20,000, did Mr. Errion present you with any papers to sign, Mrs. Connell, when he was starting this transaction to sell this house for you and get the \$20,000 for you?

A. I am supposed to say yes or no, aren't I?

Q. You can, Mrs. Connell. Go ahead and respond the way it would be most comfortable for you.

A. For Mr. Errion I suppose I have signed, I don't know—I think maybe it's exaggeration—a thousand papers, but certainly hundreds. He did everything in triplicate, sometimes in quadruplet and sometimes in quintuplets.

Q. And did you have a discussion with him immediately [17] prior to this transaction being closed whereby you were going to get your property back, and then he was going to sell it, and you were going to get \$20,000? A. Yes.

Q. Now, what did he tell you about that, Mrs. Connell?

A. I can't say yes or no to that, can I? I am instructed to say yes or no?

Q. I am not going to restrict you to yes or no answers, Mrs. Connell. You just go right ahead and answer, as I say, in the manner which would be most comfortable.

A. I was still trying to get some money because

(Testimony of Marguerite L. Connell.)

I had found a house that suited my purpose here, so I called long distance to him, and I was after him so much that he was pretty peeved about it. Finally he called me, and he said, "Come on down. Get the train, and we will meet you, and we will try to arrange about that \$20,000," so I said, "All right," and I went, and they took me to their office down there. There were four, five people around, a secretary, and old Mr. Davenport who was ready to put a stamp on something, and anyhow they had a lot of papers around, and I suppose I did—anyway, he volunteered to take care of this property, and I was to get it back in my name, and so he put this paper in front of me, and I said, "What does it mean?" I said, "You know I have no money. I can't pay for this \$16,000." [18] He was asking me to sign a note. I have always been afraid of notes that borrow an interest, six per cent, five or six per cent. I said, "You know I can't pay for this. Suppose something happens? This man doesn't buy this property." He said, "Oh, you have five years, but that shouldn't happen. It will be taken care of. Within two months, at least, you will have your money. Then you go on and buy this house." I said, "Why don't you sell it?" I think you have repeated that. I don't need to tell that over and over again—he said, "Because it would be better if it came from you as an individual," and I said, "Is there anything wrong about this thing?" He said, "No. This sort of thing is done every day by businessmen,"

(Testimony of Marguerite L. Connell.)

and after I had signed it, and they endorsed, or whatever it is, they stamped it. I had read it through, but I happened to glance at the date above which I hadn't paid any attention to, and it was dated one year before, and I made quite a fuss about that.

Q. What type of a fuss did you make about that predating of the note? A. Pardon.

Mr. Kobin: Strike that, Miss Reporter.

Q. (By Mr. Kobin): What fuss did you make about the predate?

A. Well, I didn't think it was right in the first place. I [19] would be paying interest. If anything happened to that—I had a little sense. I didn't have much. I had enough to know I might have to pay this interest. I didn't see why I should pay a whole year's interest when I hadn't the thing in my hand until this moment which was in '51, I think. He had dated it back to '50, and I made a howl about it.

Q. What did he tell you when you made quite a howl?

A. He said it will be all through in three months anyway and wouldn't be any interest about that. It was kind of a lulling situation. I know it now but didn't know it then.

Q. What did he tell you, Mrs. Connell, about whether or not it would be better to represent to the party that was going to buy your house that the note was a year old?

A. Oh, he said that maybe it would be better

(Testimony of Marguerite L. Connell.)

to—this maybe would look better. I realized then—afterwards, thinking it over, that it was—that was premeditated, but he didn't give me that impression then.

Q. Well, so that we have no misunderstanding, you did realize, Mrs. Connell, that it was perhaps improper to sign this note when it was predated when you knew that he was going to sell your house to some party, and you were going to get \$20,000? A. Yes.

Q. And he was going to get 16 out of the deal which was this [20] note? A. Yes.

Q. But you went ahead, the transaction was consummated anyway? A. I was what?

Q. The transaction was consummated anyway?

A. Yes. I was concerned about the date, a year behind.

Q. It was right there at the office that day?

A. Yes, but I didn't see it until it was all done.

Q. Until, you mean, you signed it?

A. I had signed it, and it was all stamped and finished.

Q. The note was still there in the office, was it not?

A. Yes. They were hurrying me to catch a plane. They were going to take me to catch my plane.

Q. Mr. Errion did explain to you, did he not, this was the method of getting you \$20,000 for your house? A. Yes.

Q. And he was going—

(Testimony of Marguerite L. Connell.)

A. That was the object of the whole thing.

Q. He was going to sell your house for you and give you \$20,000? A. Yes.

Q. You never got the 20, did you? A. No.

Q. Pardon? A. I did not. [21]

Q. And Mr. Glaser paid Mr. Errion the \$16,000——

* * * * *

Q. (By Mr. Kobin): I think you stated—you did state, Mrs. Connell, that you had been continuously bothering Mr. Errion about money prior to this time and that many of his promises had failed to come about. Also, did you have another problem with Mr. Errion in March of 1951 relative to tax returns that he was supposed to prepare for you? A. What's that?

Q. Was Mr. Errion supposed to prepare income tax returns for you in March of 1951?

A. Well, I asked him to report whatever is the usual thing about that. He said I didn't have, and why should I bother. I made him make it out anyway.

Q. Prior to July of 1951, Mrs. Connell, you had these many meetings with Mr. Errion about getting your money and [22] these other matters. Were you beginning to have some suspicions about that time about Mr. Errion?

A. Yes, when he didn't pay what he had promised to.

Q. And you were getting rather suspicious about him, weren't you?

(Testimony of Marguerite L. Connell.)

A. Yes, in '51, '52, along there.

Q. Mrs. Connell, prior to July of 1951 when you executed these instruments, had Mr. Errion in order to appease your demands asked you to sign a purported lease with a man named Williamson?

A. Pardon?

* * * * *

Q. (By Mr. Kobin): Did you sign a lease with a man by the name of Williamson?

A. I did.

Q. In 1950? That was in 1950?

A. Yes.

Q. And did Williamson come about to be a cheat and a fraud also and just one of the Errion bunch?

A. Absolutely, yes.

Q. Did Mr. Errion at the time you signed that lease, Mrs. Connell, represent to you that you could borrow money on [23] that lease?

A. Yes. Everytime I tried to get money from him, he would say, "Don't worry about that. You can always borrow money."

Q. Excuse me, prior to July of 1951, then, when you executed this note, did you attempt to borrow money on the Williamson lease?

A. Yes.

Q. Were you able to borrow money on the Williamson lease?

A. I was not.

Q. Did you tell that to Mr. Errion?

A. Definitely, yes.

Q. And you were upset about that also, were you not, Mrs. Connell?

A. I was.

Q. Pardon?

A. I was.

Q. And you expressed that to Mr. Errion?

A. Yes.

(Testimony of Marguerite L. Connell.)

Q. And that was prior to July of 1951?

A. Yes.

Q. Mrs. Connell, I believe you testified that you raised quite a commotion at the time the note was executed when you found out that it was predated. You told Mr. Errion that you didn't have the \$16,000 that you might be [24] required to pay if the deal didn't go through, is that correct?

A. Yes.

Q. Now, I am going to again refer, Mrs. Connell, to the testimony that you gave on July 23, 1956, in the offices of your attorney in Portland to perpetuate your testimony in this case. These questions were put to you by myself, and you gave the responses, and I will ask you whether or not you recall these questions and the following responses:

“Question: You say when the note was signed and after you signed it, you saw the date was wrong?

Answer: Wrong.

Question: You read the note, didn't you?

Answer: I looked at the top, and I said, “Now, fashion”—that is the way we speak—I said, “Now, fashion, this is dated a year ago.” He said, “Oh, that must be a little mistake.” He said, “Leave it alone. It will be better if you had it for awhile.”

Question: Did he give you an explanation?

Answer: His explanation was that he didn't buy it from me.

(Testimony of Marguerite L. Connell.)

Question: You objected to signing the note originally, didn't you?

Answer: Yes, I did. [25]

Question: And then Mr. Errion told you, "Don't worry about it. I won't do a thing about it for five years," is that right?

Answer: That is true."

You remember that testimony?

A. I don't remember the testimony, but I think it's true.

Q. "Question: You knew at the time you executed this and because of that value, you were leary about signing this note. If this deal wasn't consummated, this man might come and talk you out of the house.

Answer: Which was possible."

Do you recall that?

A. What's that?

Q. I will again repeat. "Question: You knew at the time you executed this, and because of that value, you were leary about signing this note. If this deal wasn't consummated, this man might come in and talk you out of the house.

Answer: Which was possible."

Do you recall that?

A. I recall questioning if the deal—I didn't know any individual man. I never was sure at all what man this Bob Errion had in mind, because he was very reticent about mentioning any names, so that I didn't know McKinney's name or Einar Glaser's name in connection [26] with it at all.

(Testimony of Marguerite L. Connell.)

Q. All you knew, he represented the man as being somebody in the logging business?

A. Just some man who owned logging timber, and we didn't need to go into that. He talked that—talked me into buying, supposedly buying, the place for \$16,000, and then this wealthy man wanted to come here and live, and he would take it over, and I would get my \$20,000. That was the thing I was anxious about.

Q. I will ask you whether or not you recall these questions and the responses. I am again referring to the perpetuation testimony taken in your attorney's office in Portland.

“Question: You did know if you signed this note you might get kicked out of your house afterwards if the deal didn't materialize?

Answer: Naturally. I have a horror of being left on the street.”

Do you recall that testimony.

A. I don't recall it but that is true.

Q. “What explanation did he give you to ask you to sign the \$16,000 note?

Answer: It was his way of getting me the 20 thousand that I was bothering about.”

A. That is true. [27]

Q. “Question: And you got the title back on the property?

Answer: Yes.”

Do you recall that testimony?

A. What was the last sentence?

(Testimony of Marguerite L. Connell.)

Q. "It was his way of getting me the \$20,000 that I was bothering about.

Question: And you got the title back on the property?

Answer: Yes."

A. Yes.

Q. Mrs. Connell, I don't think it's necessary to go all into these representations that Errion made, but he made a bunch of representations generally about what a businessman he was. He was an engineer, connected with the tax people and handled all kinds of deals all over the country. He would make you more money, investing your money and so forth. That is generally what he told you?

A. Yes.

Q. Now, when he was talking to you, Mrs. Connell, about the oyster property, did he encourage or discourage you to go down to Coos Bay and take a look at it? A. He encouraged me. [28]

* * * * *

Q. (By Mr. Kobin): Did you go down?

A. I did. After I had broken with him, and I couldn't—I didn't know much more when I went than before I went.

Q. Mr. Errion, as a matter of fact, told you that perhaps you better not go down and upset the apple cart? A. Yes, he did. He said that.

Q. And did you inquire of Dr. Kincaid who was connected with the University of Washington as to whether you should or should not go into this deal with Mr. Errion? A. Yes.

(Testimony of Marguerite L. Connell.)

Q. And did Dr. Kincaid tell you that he had some transactions with Mr. Errion, and he thought that Mr. Errion was not an honest man, that you shouldn't go in with him? A. Yes.

Q. That was before you went into these transactions? A. I was already into it.

Q. You were already into it? A. Yes.

Q. But that was before July of 1951 when you signed this note, wasn't it? [29]

A. Yes, I guess—yes.

Q. When Lee Davenport told you about Mr. Errion, did he tell you, Mrs. Connell, that Errion was a good salesman, he could sell a snowball in Hades? A. Something to that effect.

Q. Was that the expression he used?

A. Something of that kind he told me. That is way back at the beginning.

Q. I am sorry——

A. That is way back at the beginning.

Q. Yes, right at the beginning. Mrs. Connell, did you introduce Mrs. Skene to Mr. Errion?

A. Unfortunately, yes.

Q. And was that about the same time that you first met Mr. Errion?

A. Oh, some months, probably two or three months later.

Q. Was that on a social occasion, or did Mr. Errion request that you introduce her?

A. It was a social occasion.

Q. And Mrs. Skene resides in Mason County?

A. Pardon?

(Testimony of Marguerite L. Connell.)

Q. Mrs. Skene resides in Mason County?

A. Yes, but she and her husband were in as my guests.

Q. Was Mr. Skene alive at the time?

A. He was. [30]

Q. You know, Mrs. Connell, whether or not Mrs. Skene was defrauded by Mr. Errion also?

A. I do.

Q. You also know that Errion's bunch including Holdorf got title to her property, don't you? You know that, do you? [31]

* * * * *

Q. (By Mr. Kobin): Mrs. Connell, do you know whether Mr. Glaser of your own knowledge gave Mr. Errion or Mr. Holdorf \$25,000 for a mortgage on the Skene property?

A. I do not know.

Mr. White: Just a minute——

The Court: She has answered. She does [32] not know.

Q. (By Mr. Kobin): Were you in constant contact with Mrs. Skene, or did you see Mrs. Skene between 1949 and 1951, Mrs. Connell?

A. Oh, yes.

Q. And did you discuss Errion with her from time to time?

A. Occasionally. We were social friends.

Q. You knew—you had compared notes, had you not, about what Mr. Errion was doing for the two of you?

* * * * *

(Testimony of Marguerite L. Connell.)

A. May I explain that I didn't know that Errion was going to bother the Skenes or have anything to do financially with them until I learned he had gotten their address two or three weeks after he met them at our house, or possibly two weeks, and went over there and saw them. I had nothing to do with that transaction.

Q. (By Mr. Kobin): When did you find out that Mr. Errion had gone down to see them?

A. What's that?

Q. When did you find out that Mr. Errion had gone down to see the Skenes?

A. Oh, possibly a month later.

Q. And you knew, as you have testified, that Mrs. Skene [33] entered into a transaction with Mr. Errion also? A. She told me, yes.

Q. And did you discuss with Mrs. Skene the transactions that she had with Mr. Errion?

A. May I say something besides yes?

Q. Sure.

A. I told her to go on her own, that I didn't want to be responsible for anything or anybody that he got any money from, and I was not meaning that I was suspicious of him, but I just felt—I don't recommend a dressmaker to people because they may not like my dressmaker.

Q. Did you discuss with Mrs. Skene the transaction that she had with Mr. Errion?

A. A month later. A month or so later she talked about it.

(Testimony of Marguerite L. Connell.)

Q. And did she know or did you discuss with her the transaction involving your house?

Mr. White: Your Honor, I object to this——

A. I don't think so. [34]

* * * * *

Q. (By Mr. Kobin): I will again, Mrs. Connell, refer to the perpetuation of testimony that you gave in your attorney's office in Portland in 1956, and ask you if you recall these questions and the responses. The question asked was this, "That is what I am getting at. He told you that unless he made this transaction with you or transaction of this nature to establish values, he couldn't begin to get as much money from the Port of Coos Bay as he could if he had this transaction?"

Answer: It was not only me, myself, but two or three other people.

Question: Two or three other people there?

Answer: There were two or three other people that were going to take land.

Question: Who else?

Answer: Mr. and Mrs. Skene.

Question: Had you known Mr. and Mrs. Skene?

Answer: Yes, for years.

Question: Had you introduced Mr. Errion to them?

Answer: I believe I did. They were at my house, and the Errions blew in, and they met them, and, of course, Bob Errion is a very clever salesman.

Question: Did you discuss this transaction with [35] the Skenes?

(Testimony of Marguerite L. Connell.)

Answer: Yes. They discussed it, and went over a few days later and sold their 25 some-odd acres of land on Lake—what—oh dear, I don't remember."

Would you say that those facts are true?

A. Yes, I think so.

Q. Mrs. Connell, would this be a proper statement to make, that Mr. Errion had you sign so many papers that it's very difficult to remember what date you signed any one paper?

A. Certainly.

Q. One of the representations made to you to induce you to deed the property to him including the whole property in 1949 was that the Port of Coos Bay was going to condemn, is that correct?

A. A few words I did not get.

Q. All right. I say one of the representations that Mr. Errion made to you in 1949 was that the Port of Coos Bay was going to condemn this property, and when the property was condemned, you would get your money? A. Yes.

Q. And in 1950, as I understand, Mr. Errion informed you that the Port of Coos Bay had dropped their desire to condemn?

A. In what year? [36]

Q. In 1950? A. That's right.

Q. Is that correct?

A. In Los Angeles, yes.

Q. You were in Los Angeles then?

A. I was.

Q. At whose request?

A. Well, Bob Errion's, I guess.

(Testimony of Marguerite L. Connell.)

Q. I have used the name of Bob Errion having contacted you on many occasions and having done certain things. Do you know Dwight Holdorf?

A. I do.

Q. Was he right along with Mr. Errion on just about every one of his contacts with you?

A. He was his chauffeur and his secretary, I suppose.

Q. Did he deliver papers to you for Mr. Errion?

A. Oh, at times, I guess so. I never signed papers—my papers were always signed before Bob, and he was there also, generally.

Q. He was there, generally, too?

A. But he wasn't in Los Angeles.

Q. I see. Was Dwight Holdorf—did he cheat you also? A. Did he what?

Q. Did he cheat you?

A. I didn't look upon Dwight—he was just a handyman. [37] That is the way I thought of Dwight, a nice young fellow who was trying to make a living.

Q. You had no idea that he was a cheater or fraud? A. Was a what?

Q. Was a cheat. A. No.

Q. Or a fraud.

A. I still don't think he is or was.

Q. I will ask you, Mrs. Connell, whether you recall giving some testimony by deposition before Glen Walston, an official court reporter, residing in King County, Washington, on September 10, 1955, in a deposition in the case entitled, "In the District

(Testimony of Marguerite L. Connell.)

Court of the United States for the District of Oregon.”

A. Pardon me, where was that?

Q. This was in Seattle. The deposition was given in Seattle, and it was given on September 10, 1955, and I will ask you whether or not the facts as developed by the following questions and answers are true. I will refer you to your houses in Seattle.

“Question: Did you sell those to him or to some corporation?

Answer: I thought I was selling them to him, but I had found out they were put in this Holdorf Corporation. [38]

Question: The Holdorf Corporation?

Answer: Yes, sir.

Question: Did Mr. Holdorf participate in that transaction?

Answer: Always, yes.

Question: He always participated right along with Errion?

Answer: I always thought of him — at first I thought of him as just a chauffeur. Then I thought he was, well, a secretary, and afterwards Bob Errion called him a business partner.

Question: You eventually came to the conclusion that he was a confidant of Mr. Errion, didn't you?

Answer: Oh, yes. It was borne out not too long after.

Question: It wasn't too long after that that you found out, is that correct?

Answer: That is right.”

(Testimony of Marguerite L. Connell.)

Are those facts developed from the questions and answers true?

A. Well, they were the best I probably knew at the time, but I never did take the young fellow seriously. I asked, "Why that name for this corporation," I asked Bob Errion, and he said, "Well, I had to have some name. That was just as good as any." [39]

Q. Did Mr. Holdorf ever sign any papers that you know of involving any business transactions that you were engaged in?

A. I suppose he must have.

Q. You knew, did you not, Mrs. Connell, that Mr. Holdorf executed a deed when the property in Seattle was deeded back to you in July of 1951? You knew that, did you not?

A. Executed what?

Q. The deed, when the property, your property here in Seattle, was deeded back to you in 1951. You knew he signed the deed?

A. Three or four people signed. Of course, the one person I thought that had any money or responsibility was Bob Errion, and he manipulated these things—I don't know.

Q. Well, you got the impression there that Mr. Holdorf was Errion's servant and doing whatever Mr. Errion told him to do?

A. Yes.

Q. Is that a fair statement?

A. Yes.

Q. I will ask you whether or not the facts that developed from these questions and answers are true:

(Testimony of Marguerite L. Connell.)

“Question: Mr. Holdorf participated in that [40] scheme with you, did he?

Answer: He was always in it.”

Is that correct?

A. May I divert a minute? It was correct because Bob Errion couldn't see to drive his car. He had to have a chauffeur. He was the chauffeur.

Q. Is that what you meant by your testimony when you said Dwight Holdorf was always in it?

A. Yes.

Q. Pardon? A. Yes.

Q. That is what you meant?

A. That is what I thought.

Q. Yes.

* * * * *

Q. (By Mr. Kobin): Mrs. Connell, I am going to refer to the deposition which you gave on September 10, 1955, in Seattle in Mr. McLeod's office, and ask you whether or not the facts as developed by the following questions [41] and answers are true.

“Question: Did you meet Mr. C. W. Williamson?

Answer: I did, early in 1951.

Question: Mr. Errion referred to Mr. Williamson as being a man of considerable wealth and influence, is that correct?

Answer: He did.

Question: And you eventually determined that that was not correct, did you not?

Answer: Of course, it came out that way.

(Testimony of Marguerite L. Connell.)

Question: You found that out yourself, didn't you?

Answer: Yes. Well, I didn't find out. I found out that he never could send me any checks unless he got them through Bob Errion or Dwight Holdorf.

Question: So that you then knew that Mr. Errion, Mr. Holdorf and Mr. Williamson was practicing some type of scheme of fraud upon you, did you not?

Answer: I did after possibly 1950. Well, I came to that definite conclusion in 1952.

Question: So, at least by 1952, you knew pretty well the type of individual Mr. Errion was and the type that Mr. Holdorf was and the type that Mr. Williamson was?

Answer: Well, a woman with no more experience than [42] I should never have had anything to do with that kind of people, but it gradually came to me they were scamps and scoundrels.

Question: And that you were being taken?

Answer: That is right."

Are the facts that are brought out by those questions and answers true, Mrs. Connell?

A. Yes.

Q. The following questions, "Question: Did Mr. Holdorf represent to you at any time that Mr. Errion or himself were experienced in business and financial matters?

Answer: Well, he, Mr. Holdorf, simply bore out everything that Bob Errion suggested, and by that

(Testimony of Marguerite L. Connell.)

time I did know he was considered a partner of Bob Errion's.

Question: So that by January of 1951, at least, you had absolutely no reason to doubt but that Mr. Holdorf was also a cheat and a fraud?

Answer: Yes. Yes, the whole crowd together. I rarely saw Bob Errion unless I saw Holdorf because he drove him everywhere."

Is that a true statement of the facts?

A. To the best of my knowledge, yes.

Q. "Did Mr. Holdorf participate in that transaction?

Answer: Yes, he was right there.

Question: He was right there, and he knew all [43] about what was going on?

Answer: Yes, definitely."

Is that a correct statement of the facts?

A. I think so.

Q. (Reading) "In other words, when you refer to the handwritings, the fact that you recognized those handwritings, it is because those are the handwritings of these two frauds?

Answer: Yes, absolutely."

* * * * *

Q. (By Mr. Kobin): We are talking about the note or purported note that predicated—that your cross complaint is based on.

Mr. White: The \$20,000 we are suing on.

The Court: Be sure that Mrs. Connell understands it.

Mr. Kobin: Yes.

(Testimony of Marguerite L. Connell.)

Q. (By Mr. Kobin): Mrs. Connell, let me put this to you, and I think you will get the background. I am going to hand you this note, Mrs. Connell, and I am going to ask you to look at the signatures and the purported [44] endorsements which appear on the back of the note. Do you have any knowledge of the time when that note was endorsed? [45]

* * * * *

Q. (By Mr. Kobin): This is the note, Mrs. Connell, that I handed you, and I showed you these endorsements.

A. That looks like their writing in both cases.

Q. All right. Now, with that thought in mind at the time these questions were being asked of you, I had shown you a—exhibited to you the endorsements on that note, the answer that you gave to the question was, “No, I haven’t, but I recognize both of those handwritings. I have had a number of examples of that.

Question: In other words, when you refer to the handwritings, the fact that you recognized those handwritings, it is because those are the handwritings of those two frauds?

Answer: Yes, absolutely.

Question: Dwight Holdorf and C. W. Williamson?

Answer: Yes.

Question: And you know that they are frauds, don’t you, Mrs. Connell?

Answer: Yes. I certainly ought to by now.

(Testimony of Marguerite L. Connell.)

Question: And you knew that they were frauds long before you took this note?

Answer: Yes, this note.

Question: Yes. You took that note, apparently, in July of 1955?

Answer: Oh, yes, before that, but I don't know [46] when it was that this note was executed."

Now, would you say that those facts are true?

A. I think I follow you. This note—what was this note?

The Court: The substance of the question, if I understand it correctly, Mrs. Connell, is simply this: Prior to the time that you got this \$20,000 note that you are suing on in the case here—do you have that note in mind?

The Witness: May I say, your Honor, it wasn't \$20,000. It is \$16,000 plus interest.

Mr. White: She shifted to another note.

The Court: Please let me talk to the lady just a moment.

We are talking about the note that you are claiming on.

The Witness: Oh, yes.

The Court: In the case, Mrs. Connell.

The Witness: I was going back to my house.

The Court: I know. That is what I am trying to do, get you oriented, talking about that note you are suing on, that is the \$20,000.

The Witness: Yes.

The Court: Now, the purport of this line of

(Testimony of Marguerite L. Connell.)

questioning is, that before you got that note—by the way, when did you get the \$20,000 note? [47]

The Witness: Have I ever had that note?

Mr. Kobin: To answer that response—

Mr. White: I think it will show July of 1955.

The Court: July of 1955 your counsel says.

The Witness: Yes.

The Court: Is the time when you got that note?

The Witness: We are trying to check—

The Court: Yes. Now, the question that Mr. Kobin is putting to you is this: Before you got that note, the \$20,000 note—

The Witness: Yes.

The Court: Before that time, you already knew that Errion and this other fellow Holdorf were crooks.

The Witness: Certainly, before '55.

The Court: Yes. That is the purport of the question. Go ahead.

Q. (By Mr. Kobin): Mrs. Connell, of course, by the record which is admitted in this case in the Federal Court case and also in the Seattle Court case, you sued Mr. Holdorf also and charged him with participating in the fraud?

A. His name with one of a dozen, I think, that were submitted. [48]

Q. And you are pretty-well satisfied that Mr. Holdorf, based upon this line of questioning, had actively participated with Mr. Errion as a conspirator with him, did you not?

(Testimony of Marguerite L. Connell.)

A. I suppose so, but he certainly wasn't in a class with Errion.

Q. Mr. Errion is a clam——

A. He is the Number One man, and the rest are all——

Q. Parties? A. Yes.

Q. Now, the first time that you heard about Mr. Glaser, as I understand it, was when Mr. Errion represented that he was handling a logging venture for he and his partner?

Mr. White: Object to that as misstating the testimony that is here.

A. That certainly is not so.

The Court: Put a question to her. Even though you would be entitled to lead under the circumstances, it will be more valuable if you don't lead unless it is necessary.

Mr. Kobin: Thank you, your Honor.

Q. (By Mr. Kobin): Did Mr. Errion represent to you—let me ask you this question again; it might be repetitious. I will ask if these facts are not correct. This is [49] quoting from your deposition taken on February 23, 1954.

“Question: And did either Mr. or Mrs. Holdorf or Mr. and Mrs. Errion make any representations at all with respect to Dorothy and Einar Glaser?

Answer: No, except this. I heard Bob say that he was handling a big logging business, that there were 55 heirs, and among them was a man by the name of Einar. I can't remember, but it must

(Testimony of Marguerite L. Connell.)

have been a man by the name of McKinney, and he mentioned some others.

Question: When was that?

Answer: Oh, in 1950 or early in 1951.

Question: But you never have met either of the Glasers?

Answer: No. In fact, I didn't know they had anything to do with it until I was going to sell the property later, and I asked if I could, and Bob Errion said——"

And then Mr. White interrupted, so we didn't continue with your answer.

Now, aren't those facts true, Mrs. Connell?

A. Yes, the facts are true, that I never heard of the Errions until—at least, I don't remember hearing of them.

Mr. White: Did you mean Glasers instead of Errions? [50]

The Witness: I mean Glasers, pardon me.

Q. (By Mr. Kobin): May I, Mrs. Connell, if possible—— * * * * *

Q. (By Mr. Kobin): I asked if those facts were true.

The Court: Put the matter to her again, the substance, without——

Q. (By Mr. Kobin): You heard Bob Errion sometime in 1950 or 1951 state that he was handling a big logging business for a man named Errion—a man named Einar and a man named McKinney, that there were 55 heirs involved, did you not?

A. Yes, but may I explain?

(Testimony of Marguerite L. Connell.)

Q. Surely.

A. I did not associate it with when I saw the name on—when I didn't see it, but my man reported it. Then it brought back a little memory. I remembered hearing Bob mention that man's name, but he did not say that a man by the name of Glaser or a man by the name of McKinney was the man he referred to who were going to buy my place—never was informed of anything of that kind. Their names did not come in to my knowledge. [51]

Q. In other words, what your testimony is is that Mr. Errion prior to the time that he represented that he would sell the home to you for \$20,000 had mentioned the name of Einar to you but not in connection with the purchase of your home?

A. Oh, it was mentioned in connection with ten or fifteen other people whom he wanted to impress me with.

Q. I see. In other words, Mr. Errion as one of his schemes would brag about people that he was doing business with? A. He did.

Q. I will ask you whether or not these facts are correct. Mr. White was questioning you, Mrs. Connell, relative to the same Glaser matter—whether or not these facts are correct. You said as follows: "Well, there were 55 people in that, they told me in this mess. The Glasers, I remember those two names. I don't remember the Glasers, but I do remember Einar and I remember McKinney, but I

(Testimony of Marguerite L. Connell.)

don't remember the other names, but they said there was 55 people in that."

By Mr. White: "You further allege in your second defense that Plaintiffs herein, meaning the Glasers, were actively engaged in defrauding other widows of their life savings and were never possessed of the net worth of a million dollars or any substantial funds. [52]

What other widows were they defrauding?

Answer: There was Mrs. Plamondon.

Question: How did the Glasers defraud her?

Answer: I don't know anything about the Glasers.

Question: Do you know the Glasers didn't have anything to do with any other widows?

Answer: I don't know the Glasers.

Question: You don't know anything about them?

Answer: Except that I—after I had learned in 1952 or '53 that they had a mortgage on my house. That is the first time I knew they had anything to do with anything of mine."

Do you recall that?

A. I do.

Q. Did you say that?

A. I don't recall that, but that is a fact.

Q. That is a fact.

Mr. Kobin: That's all.

Cross Examination

Q. (By Mr. White): Mrs. Connell, the first time you knew of the name "Einar Glaser" or the

(Testimony of Marguerite L. Connell.)

fact that there was a mortgage on your property was when this real estate man who [53] had looked up the title, this Seattle real estate man, had mentioned it to you, is that right?

A. That's right.

Q. When did that occur, to the best of your recollection?

A. It must have been the very latter part of '52 or early in '53.

Q. I see.

A. Because I got disgusted and started to try to sell the place.

Q. All right. Now, during all of this time from 1949 to the present, you have been in possession and have lived in this house at 2812 Mt. St. Helen's Place?

A. I have.

Q. And at no time has, to your knowledge, at no time did you have any contact by letter, telephone or otherwise, with either Einar Glaser or Dorothy Glaser until you got a letter in December of 1953 demanding payment of this \$16,000 note, is that correct?

A. That's correct. After Bob Errion, I started my suit.

Q. Yes. A. Then that came.

Q. That was after you commenced your fraud suit in this court?

A. Yes.

Q. Against Glasers and Errion and others in late August, [54] 1953?

A. That's right.

Mr. White: That's all.

(Testimony of Marguerite L. Connell.)

The Court: That's all, Mrs. Connell. Step down, please.

Anything further?

Mr. Kobin: Yes, your Honor——

Mr. White: Could I just ask this witness for the record how old she is?

How old are you, Mrs. Connell?

The Witness: I will be 82 December 13th this year. [55]

* * * * *

EINAR GLASER

called as a witness on behalf of the plaintiffs, being first duly sworn, was examined and testified as follows:

The Clerk: Please state your full name and spell your last name.

The Witness: Einar Glaser, G-l-a-s-e-r.

Direct Examination

Q. (By Mr. Kobin): Spell your first name.

A. E-i-n-a-r.

Q. Where do you live, Mr. Glaser?

A. I live at Jewell, Oregon.

Q. You are one of the plaintiffs in this case?

A. Yes.

Q. How old a man are you, Mr. Glaser?

A. Fifty-two.

Q. What was the extent of your schooling, Mr. Glaser? A. I finished the eighth grade.

Q. Where? [57] A. In Michigan.

Q. In a large or small community?

(Testimony of Einar Glaser.)

A. What?

Q. In what community?

A. It was a little farm school between Brighton and Howell, Michigan.

Q. Prior to 1949 — I will strike that. Prior to 1951, Mr. Glaser, in what business were you?

A. I was in the logging business with a partner, Mr. McKinney.

Q. How long had you been in the logging business, Mr. Glaser?

A. I had been associated as a partner since January of 1948.

Q. Prior to that time, what?

A. Well, I had worked with Mr. McKinney starting in 1940, and I was gone for a couple of years, and then I came back in 1942 and operated a cat and also ran the job for him.

Q. In the logging business, were you in the office part of the time, or did you handle the field end of it?

A. I was on the production end, superintendent of operations.

Q. Did you have anything to do with the office end of the operation? A. Very little.

Q. Where were your operations, Mr. Glaser, in 1951? [58]

A. In the Cook Creek area, Tillamook County.

Q. Oregon? A. Oregon, yes.

Q. And how long had you been in that particular area? A. Started about 1942.

Q. Are you married, Mr. Glaser?

(Testimony of Einar Glaser.)

A. Yes, I am.

Q. And your wife is Dorothy, and she is a co-plaintiff with you? A. Yes.

Q. How long have you and Mrs. Glaser been married?

A. I believe it's—I am not sure. It's about 13 years.

Q. Do you have a family? A. No.

Q. When did you have the unfortunate experience of meeting Mr. Errion?

A. I met him in the early part of April of 1951.

Q. And who introduced you to him?

A. My partner, Mr. McKinney. We were on a trip to Portland to meet the people of a Portland manufacturing company regarding a contemplated sale of our property.

Q. Had you and Mr. McKinney or Mr. McKinney and you—how ever you would choose, been rather successful in building up a pretty good business?

A. Yes. We had a property at that time—we had a sales [59] price on it of around a million three or four hundred thousand dollars. It was the culmination of several years of hard work.

Q. On both your part and Mr.—

A. On both of our parts.

Q. Now, immediately prior to the time that you met Mr. Errion, say in the latter part of 1950, Mr. Glaser, where did you and Dorothy make your home?

A. We resided at Jewell, Oregon, but we had

(Testimony of Einar Glaser.)

only moved other, I think, in the early part of 1950. Prior to that time we lived up on the job on Cook Creek.

Q. For how many years did you live on the job at Cook Creek?

A. We had been up there, I suppose, about four or five years. Prior to that, we lived in Wheeler—or not Wheeler, but Nehalem, Oregon, which wasn't too far from the job.

Q. Was that just a logging camp you lived in?

A. Just. We called it Snag Valley. It was three or four little houses there.

Q. Did you come into town?

A. Not any more than necessary.

Q. Who transacted the actual business for the company?

A. Mr. McKinney took care of all of that.

Q. You were on the production end?

A. I was on the production end, on the job when we were [60] operating a crew. I met the busses at a quarter to 7 every morning and lined up the work for the day, and I was constantly up and down the road on the job.

Q. Mr. Glaser, getting back to your meeting Mr. Errion, you were introduced to Mr. Errion by your partner? A. Yes.

Q. Did it eventually come about that Mr. Errion got a listing on your partnership properties from both you and Mr. McKinney? A. Yes.

Q. To sell your lumber business, is that right?

A. Yes. The original deal fell through in the

(Testimony of Einar Glaser.)

latter part of May with this other company, and we had another real estate agent at that time.

Q. Just answer this question yes or no, Mr. Glaser. Did Mr. McKinney after he introduced you to Mr. Errion tell you anything about Mr. Errion's background? Answer that yes or no.

A. Yes, he did.

Q. You, Mr. Glaser, have been involved in litigation involving Mr. Errion and his gang, as it were, and you have heard the various charges and read of the various charges of fraud and the misrepresentations that Errion made to you—to other people relative to his capacities and abilities? You can answer that yes or no. [61]

* * * * *

Q. (By Mr. Kobin): What representations did Mr. Errion make to you?

* * * * *

The Witness: May I have the question?

The Court: What representations did Errion make to you concerning his background and experience, his business, business abilities?

The Witness: Well, most of the conversations had taken place with Mr. McKinney and Mr. Errion, [62] and Mr. McKinney reported to me or told me——

The Court: You are not permitted to tell what Mr. McKinney said to you, but you can tell us what Errion said concerning his background.

The Witness: Well, the impression I got——

The Court: That won't do, either, Mr. Glaser.

(Testimony of Einar Glaser.)

You have got to confine yourself to the question. Now, we will all save time if you do that. Just answer it. If you can't answer the question, just say so. You see?

Q. (By Mr. Kobin): What did Errion say to you?

A. He was a tax man, an investment broker, a real estate broker at the present time and handled deals that involved a lot of money.

Q. Did he make any statement to you about any connections with people?

A. There were various names mentioned—Scaggs Grocery, Doe—he knew the Does, or one of them, had met them in Seattle, and, oh, just too numerous for me to remember.

Q. Now, did these discussions with Mr. Errion take place prior to June of 1951?

A. Some of them, yes.

Q. In reliance upon the statements that were made by Mr. Errion and by your partner, Mr. McKinney, did you then [63] give Mr. Errion a listing to sell your partnership holdings in Tillamook County?

A. Yes.

Q. Did you in fact do so, Mr. Glaser?

A. Yes.

Q. What did Mr. Errion in June of 1951 represent to you that he was doing? Did he come down and visit you, first of all?

A. Yes. He appeared on the scene in the evenings, usually around the time that I would arrive

(Testimony of Einar Glaser.)

home, and he would set and talk and just generally—I would say now he was feeling his way.

Q. That is on reflection?

A. That is on reflection, yes.

Q. And you and Mrs. Glaser would be home then? She would be there? A. Yes.

Q. And would anybody be along with him?

A. Mr. Dwight Holdorf.

Q. How often would you say, Mr. Glaser, did he come down to your home to talk to you prior to June, 1951?

A. I couldn't remember the exact number of times.

Q. Let me ask you this: Would you say it was often? A. Fairly.

Q. Fairly often? [64] A. Yes.

Q. Well, maybe this will help you. Do you remember the Skene transaction? A. Yes.

Q. When did that take place?

A. Sometime in June, I believe.

Q. Of 1951? A. Yes.

Q. Mr. Glaser, did you at my request check your records to find out when the Skene transaction actually took place?

A. Yes. Up until last week I was under the impression that it had taken place at a later date, but I have been involved in so much litigation, have so many papers in so many attorneys' offices, that I have my records all scattered out, so you called it to my attention that the original deal on

(Testimony of Einar Glaser.)

the Skene property had taken place, I believe it was in June.

Q. Of 1951? A. '51.

Q. How did that come about? [65]

* * * * *

Q. (By Mr. Kobin): Now, prior to the Skene transaction, which is in June of 1951, had Mr. Errion visited with you quite often?

A. Frequently.

Q. Yes, and he had made these representations to you about what background he had?

A. Yes.

Q. And had he also represented to you, made any representations to you relative to what he was doing in order to put your business deal together?

A. Yes. Part of it hinged on the — we were in danger of a lawsuit from this Portland manufacturing company deal which had fallen through, and one of the conditions, as I remember it, was that he would take care of that and straighten it out for us.

Q. And did he ever inform you prior to June of 1951 that he was temporarily out of funds?

A. Yes. There was some mention made of it, that he had a [66] lot of property, but he was a little short.

Q. He was a little short? A. Yes.

Q. What, if anything, took place between you and Mr. Errion, Mr. Glaser, involving this Skene property—and Mr. Holdorf. Let's add him to it.

A. I don't remember too clearly, but—

(Testimony of Einar Glaser.)

Q. Let me ask you this, Mr. Glaser. Did you eventually loan either Mr. Errion or Mr. Holdorf or somebody \$25,000 on the Skene—on a note and mortgage on the Skene property? A. Yes.

Q. In June of 1951?

A. I loaned them an original amount of \$5,000 on it, and later in October gave them the balance.

Q. Are you sure of those dates, Mr. Glaser?

A. Not too sure.

Q. All right, but your recollection is that you eventually loaned them \$25,000 on that property?

A. Yes.

Q. All right. Why?

A. Well, at the time Mr. Errion was going to handle the property, the sale of our property, and he was short of money and wanted a loan, so I told him that—well, I would probably have a little money, but I would have to [67] have some security for it, and then he produced this Skene note and mortgage.

Q. That was with Holdorf, was it?

A. With Holdorf and Errion.

Q. By that time had he pretty well sold you on himself?

A. Yes. He had made a good appearance and a pleasing personality and seemed very sincere in what he was doing. He was going to help us, and we were faced somewhat with some tax problems then which he was going to take care of.

Q. Now, when did the what turned out to be the Connell matter come about on this, Mr. Glaser?

(Testimony of Einar Glaser.)

A. That was, I believe, in August.

Q. Of what year? A. 1951.

Q. All right. What did he tell you about that?

A. Well, he was right in the middle then of the sale of our properties, and he was pressed for money. He had some obligations he had to meet, and he had this property in Seattle which was very good, and he would like to pledge a note and the mortgage for the face amount, which I thought was all right, and subsequently we did.

Q. May I ask you, Mr. Glaser, if whether during the period between June and August Mr. Errion was continuously in [68] contact with you during that time? A. Off and on, yes.

Q. Well, by off and on, you mean what?

A. He would come in again in the evenings when I came home, after I came home from the job.

The Court: Well, roughly how frequently was it, once a week or once a month?

The Witness: It would be once a week. Some weeks it might be twice a week. Sometimes it would be three times a week.

Q. (By Mr. Kobin): Would you know when to expect him? A. No, never did.

Q. When he came, what would he tell you he had been doing?

A. He had been working hard with the Portland Manufacturing Company and contacted these people in Washington who were a syndicate or something that were going to buy our properties, and——

(Testimony of Einar Glaser.)

Q. Did he represent to you that he was working with a syndicate in Washington that was going to buy your properties? A. Yes, he did.

Q. What else did he tell you?

A. Oh, the name of the man, by the name of Mr. Buell as a representative of this syndicate, and we had heard in the meantime that—through another source that he was [69] looking at some property over the mountain from us in which we had a little holding, so when the name of Buell came up in connection with Mr. Errion, why, it seemed a logical—it seemed like he was a logical buyer.

Q. It turned out that Buell—

Mr. White: Object to that as a leading question.

Q. (By Mr. Kobin): At the time that you—strike that. [70]

* * * * *

Q. (By Mr. Kobin): After you became involved with Mr. Errion on the Skene matter, when, if you recall, did he next start talking about needing money?

A. Oh, it was probably two or three weeks or a month later.

Q. And how did it come about if you recall?

A. Well, of course, by that time he knew I wanted some security— [83]

* * * * *

Q. (By Mr. Kobin): Let me ask this question. Did he tell you he needed money? A. Yes.

Q. After the Skene money?

(Testimony of Einar Glaser.)

A. Yes. He said he needed money, that he had this property in Seattle.

Q. Did he tell you why he needed the money?

A. No, not particularly. He said he was short.

Q. Did he tell you why he was short?

A. Well, he was spending so much time on our affairs trying to make this sale.

Q. What was he doing on your affairs at that time in July of 1951?

* * * * *

Q. (By Mr. Kobin): What was he doing that you know, not what he said, Mr. Glaser?

A. He was taking care of the Portland manufacturing matter [84] and meeting with Mr. Buell.

Q. Now, what did he tell you he was doing about your transaction at that time?

A. I can't recall any exact instance, but he was very busy on it.

Q. Did he say something about negotiating a deal with a syndicate?

* * * * *

Q. (By Mr. Kobin): What did he tell you about—strike that. Did he tell you he was trying to sell your business?

A. Yes. We had signed a listing, a real estate listing, the 7th of June.

Q. By "we", you mean whom?

A. My partner and I, Mr. McKinney, and he was working on the sale of the property.

Q. What was the listing price?

(Testimony of Einar Glaser.)

A. To the best of my knowledge, I believe it was a million three hundred thousand.

Q. During that time, that is, during July of 1951, did he tell you—now, this requires just a yes or no answer—did he tell you how he was trying to arrange the sale? [85]

A. Yes.

Q. What did he tell you about that?

A. Well, he had represented this syndicate of which Mr. Buell was the head. They were from Washington—Seattle, and he was going to work out a sale with them.

Q. What other discussions did you have with him about the methods that he was using in handling the sale?

A. I didn't have very many regarding that.

Q. What did you have discussions with him about?

A. Just general things as they developed.

Q. How often would you say during July of 1951 did you see Mr. Errion?

A. Oh, I couldn't say. It would be off and on. Sometimes I wouldn't see him for a week or two. Then he would show up two, three days in a row.

Q. Everytime he showed up, did he discuss with you what he was doing?

A. Not specifically. Generally.

Q. What did he come for?

A. I think—I know now what he came for. He was feeding us a line.

Q. What did he talk about when he came, Mr. Glaser? [86]

* * * * *

(Testimony of Einar Glaser.)

Q. (By Mr. Kobin): Did he invite you to dinner at his house? A. Yes.

Q. Did you invite him to dinner at your house?

A. Yes, he always came about dinnertime. Naturally, we invited him.

Q. Did he talk to you about organizing a corporation of any kind in July of 1951 to take over your business?

A. No. No, he didn't talk to me about that, but in a general way he was talking about co-ops.

Q. Did you eventually give him \$16,000 and in return receive the note, the mortgage and the assignment of mortgage from Mrs. Connell?

A. Yes.

Q. At the time that you gave him this \$16,000, Mr. Glaser, did you have any reason to doubt Mr. Errion?

A. No. He had made a good impression upon me, and he had my confidence.

Q. Did you know Mrs. Connell?

A. No, I didn't. [87]

Q. Did he mention Mrs. Connell to you?

A. Yes. I remember something about him mentioning to my wife when he visited us, we had a few antiques in the house, and he mentioned to my wife about this woman in Seattle. Now, I couldn't say specifically that was Mrs. Connell who had a big house that was filled with antiques, and——

Q. And did he tell you—excuse me.

A. If my wife would visit up there, he would take her up there, why, she would give her anything that she took a fancy to.

(Testimony of Einar Glaser.)

Q. Did he tell you that this was this woman's house that you would have the security on?

A. No.

Q. Did you ask him at that time, Mr. Glaser, what the security was?

A. Yes, what type of a building it was and where it was located.

Q. Did you have a credit report run on Mrs. Connell? A. No, I didn't.

Q. Did you have a title search run made?

A. No, for the reason that I trusted Mr. Errion.

Q. Did Mr. Errion at any time previous to your giving him that \$16,000 tell you how he happened to get this note and mortgage from Mrs. Connell? [88]

A. No.

The Court: Did you ask him?

The Witness: No, I didn't.

Q. (By Mr. Kobin): Why?

A. Well, I had confidence in him, and it seems very foolish at this date, but I just took his word for it. He had made such a good impression.

The Court: What was his word? What was his explanation of how he came to have this note and mortgage?

The Witness: I have the impression that it was through some of his dealings here in Seattle. That's to the best of my knowledge, that's all I can say.

Q. (By Mr. Kobin): That he previously told you that he had been doing business in Washington?

A. Yes, I had that distinct impression, that he

(Testimony of Einar Glaser.)

had just recently moved to Oregon. He had been in business up here for quite some length of time.

Q. Did he tell you that he had this security before you gave him the money?

A. Yes. He described it as a very valuable piece of property and that he didn't want me to let go of it, that at the first opportunity, why, he wanted to get it back; also, that I could borrow money on it from [89] the Sun Life Insurance Company, I believe, if I needed to.

Q. He told you you could borrow money on this mortgage from Sun Life? A. Yes.

Q. And that is the Connell mortgage we are talking about here? A. Yes.

Q. Now, did you get the note, Mr. Glaser, at the time that you gave him the balance of the monies?

A. Yes.

Q. And have you had it in your possession ever since up until this litigation started?

A. It's been in mine and my attorney's possession.

Q. Was the assignment recorded? A. Yes.

Q. How was the assignment—how did you cause the assignment to be recorded, if you recall?

A. Mr. Holdorf was coming down with Mr. Errion on these trips—

Q. Coming down from where?

A. From Portland to our home at Jewell, and in their conversations there was—Mr. Errion was always talking about Dwight having to go to Seattle or just coming back, and so he volunteered to

(Testimony of Einar Glaser.)

take the mortgages up to Seattle and record them for us, which we did. [90]

Q. I see. The assignment of the mortgage was returned to you, was it? A. Yes.

Q. And you had it in your possession?

A. Yes.

Q. Was Dwight Holdorf present at most of these conversations with Mr. Errion?

A. Yes, he was.

Q. Did he participate in these conversations?

A. Not too actively. Occasionally he would. Most of the time he was setting back and listening, and he would volunteer information from time to time, whatever the subject was.

Q. And was he present at the time of this transaction, these transactions were being put together—strike that. Was he present at the time you had your conversations with Mr. Errion relative to the Connell mortgage and also at the time the money was exchanged? A. Yes.

Q. The checks were made payable to whom, if you recall?

A. To Dwight Holdorf, I believe.

Q. You believe? A. Yes.

Q. Did Mr. Errion ever tell you in what capacity Mr. Holdorf—strike that. Did Mr. Errion ever discuss Mr. [91] Holdorf's business relationships with him in your presence?

A. Not directly, except that he had set Mr. Holdorf up with this Holdorf Oyster Corporation. It was a—I got the impression that it was a little com-

(Testimony of Einar Glaser.)

pany of Mr. Holdorf's. Mr. Errion had set him up in this, and he was making some money with it.

Q. Did he tell you whether or not there was any blood relationship which existed?

A. Yes. I have the distinct impression that he told me one time that Dwight Holdorf was his nephew.

Q. When you used the word "impression", do you mean you have the recollection that he told you?

A. Or recollection, yes.

Q. Mr. Glaser, after some period of time, you caught onto Errion, is that correct?

* * * * *

Q. (By Mr. Kobin): In the fall of 1952, did Mr. Errion present you with a contract that sort of shocked you?

A. Yes, he did. It was a document that started to open my eyes. I would say the contents of it were—in my language, that he wanted to trade these two notes and [92] mortgages for a lawsuit against my partner.

* * * * *

Q. (By Mr. Kobin): Did Mr. Errion ultimately, that is eventually, conclude a purported sale of your logging properties? Well, let me frame it a little simpler. Did Mr. Errion finally sell your logging interests?

A. We thought he did, yes. We received two notes and mortgages, my partner and I, from the McKinney Logging Corporation for \$575,000 apiece.

(Testimony of Einar Glaser.)

Q. And the McKinney Logging Corporation, who was that? [93]

* * * * *

Q. (By Mr. Kobin): Was that an Errion corporation?

* * * * *

The Witness: May I answer?

The Court: If you know. Do you know anything about it?

The Witness: All I know is what appeared at the time on the notes and mortgages. Mr. Buell and Mr. Carr, Mr. Buell was the president and Mr. Carr was secretary-treasurer. Since then I know different, that it was an Errion corporation.

Mr. White: Move to strike that. It's calling for a conclusion.

The Court: Well, I don't know. He said since then he knows.

Q. (By Mr. Kobin): How do you know? [94]

A. Through various lawsuits that everybody filed in the State of Washington.

Q. Were you present at the time of the trial of the issues? A. Some of them, yes.

Q. Did you hear the testimony? A. Yes.

* * * * *

Q. (By Mr. Kobin): Were those sales eventually rescinded? A. Yes.

Q. When did you——

The Court: Did you get your property back, then, in the rescission?

(Testimony of Einar Glaser.)

The Witness: Yes, my partner did, took possession of it.

Q. (By Mr. Kobin): And you then settled your differences with your partner?

A. Yes, later. [95]

Q. When did you first consult with an attorney with respect to this note and mortgage?

A. I believe it was in 1953. At about the time that we were served on this Federal Court case by Mrs. Connell, we had. We were beginning to get apprehensive about it, and I consulted, or my wife did, rather, Mr. Wendell Wyatt in Astoria. We were then referred to Mr. Wayne Wright up here in Seattle.

Q. Do you know whether or not Mrs. Glaser prior to your consulting Wayne Wright discussed the note with Mr. Errion?

A. Yes, she did.

Q. Were you present at those conversations?

A. I was present, but I wasn't paying too much attention.

Mr. Kobin: I have nothing further, your Honor.

The Court: Cross examination. [96]

Cross Examination

Q. (By Mr. White): Mr. Glaser, in reference to this \$16,000 note, you had the transaction in reference to this note with Mr. Errion, didn't you?

A. Yes, Mr. Errion and Mr. Holdorf.

Q. But you had the transaction with only Mr. Errion, is that not right?

A. He was the principal, yes.

(Testimony of Einar Glaser.)

Q. In other words, Mr. Errion did all the talking, but the money went to Mr. Holdorf?

A. Yes.

Q. Or the Holdorf Oyster Corporation?

A. Yes.

The Court: What person did you hand the money to? Did you make it out in a check, or how was the money paid?

Mr. Kobin: We can help the Court. We have the checks.

The Witness: It was in cashier's checks, your Honor.

The Court: Payable to the Holdorf Oyster Corporation?

The Witness: Yes.

The Court: Who did you hand the checks to?

The Witness: Mr. Holdorf to the best of my recollection.

The Court: All right, go ahead.

Q. (By Mr. White): Isn't this what happened; Mr. Errion had a conversation with you and said he wanted some money, isn't that right?

A. Yes, he said he needed some money.

Q. And didn't Mr. Errion give you the note?

A. Possibly, but I couldn't recollect for sure. I would say that Mr. Holdorf and Mr. Errion were together.

Q. Well, isn't it a fact that Mr. Holdorf—isn't this right, isn't this what happened—Mr. Errion wanted to borrow some money from you, and eventually at some time or other gave you the promis-

(Testimony of Einar Glaser.)

sory note but later or at another occasion, Mr. Dwight Holdorf went down to Jewell and handed to you only the assignment of mortgage at which time you gave Mr. Holdorf the seven 500-dollar checks and that other check for 12,5? Isn't that what happened?

A. It could be possible.

Q. Yes. A. I wouldn't swear to it. [98]

* * * * *

Q. (By Mr. White): Do you know whether Mr. Errion gave you the note or not? Who handed you the note? A. At this late date——

Q. You don't know? A. Couldn't recollect.

Q. I see. Do you know who handed you the assignment of mortgage?

A. I would say Mr. Holdorf as you described it. It seems reasonable.

Q. Yes. Now, at the time he handed the assignment of mortgage—he didn't hand you the mortgage, though, did he?

A. Whatever paper we have, he gave me.

Q. Well, the only thing you have is a photostatic copy of a mortgage that was recorded. Isn't that your——

Mr. Kobin: That is the exhibit. We are not——
The Witness: We had the original, I thought.

Q. (By Mr. White): Well, you don't have the original now, do you?

A. Must be in my attorney's possession.

Mr. White: Do you have the original? [99]

Mr. Kobin: We are making a check.

(Testimony of Einar Glaser.)

Mr. White: I see. Thank you.

Q. (By Mr. White): At the time, Mr. Glaser, it was at Errion's suggestion that you took this note, wasn't it? Isn't that right?

A. I don't follow you.

Q. Well, he wanted some money, and you lent him this money, and it was at his suggestion that you took the note? A. Yes.

Q. And at that time you didn't pay any attention to it, did you?

A. I thought it was good security. I trusted him.

Q. At that time, at the time of this transaction and in reference to the note, you didn't pay any attention to it, did you? You were busy, weren't you? A. I was very busy, yes.

The Court: The question is, did you pay any attention to it or did you just rely wholly on Errion without giving any thought or attention to it at all?

The Witness: It appeared on its surface good to me, and I relied upon Mr. Errion's judgment and good faith.

The Court: His statements about it?

The Witness: His statements about it. [100]

The Court: All right. Go ahead.

Q. (By Mr. White): Is it true that you didn't pay much attention to it?

A. Yes, in that respect.

Q. And at the time you didn't go—in reference to this promissory note, this transaction for \$16,000, you didn't go into—Errion didn't tell you where he had gotten the note, did he? A. No.

(Testimony of Einar Glaser.)

Q. And you didn't go into that matter with him, did you? A. No.

Q. And you made no inquiry of him as to whether he had paid any money for it, did you?

A. No. I had no reason to.

Q. I see.

A. I trusted him, and it appeared good.

Q. But you didn't make any inquiry about how he had gotten it or whether he had paid anything for it, did you? A. No.

Q. Now, at that time, this is in August of '51, Mr. Glaser, at that time you didn't actually know the relationship between Holdorf and Errion, but you assumed that there was some kind of a relationship between them, didn't you?

A. I remembered distinctly Mr. Errion saying something [101] about Dwight, that he had trained him, that he was a nephew.

Q. Now, there was nothing said as to how—when Mr. Errion—this was a loan of money to Mr. Errion, wasn't it?

A. I considered it as such.

Q. Yes, and did you inquire at that time as to how you could pay money to Holdorf Oyster Corporation and loan money to Errion?

A. They were together, and by that time I assumed that they were associating—

The Court: But the question is, did you inquire?

The Witness: No, I didn't inquire.

Q. (By Mr. White): Now, at the time you took

(Testimony of Einar Glaser.)

this note, you were told the interest on it was past due, were you not?

A. There was some discussion on it. I don't recollect. My wife would have a better recollection on that.

Q. I see. I would like to refresh your memory if I may, Mr. Glaser. I am going to read your testimony from the first case when you sued on this note in the Superior Court, State of Washington for the County of King, No. 465340, where you testified—I am referring to Exhibit B, and this trial took place, to refresh your memory, on September 8 and September 9, 1954, and here is [102] what I am going to ask you if you didn't testify as follows, and you listen, and I will read it accurately to you.

“Question (Mr. White): Now, Mr. Glaser, you knew at the time that you acquired this note and mortgage, the interest was not paid, isn't that right, on the face of it?

The Court: The question was, did you know whether or not the interest was paid when you got this?

Answer: I think they told me, to the best of my memory, that the interest was due on it.”

Didn't you so testify?

A. Yes.

Q. And then again just shortly after that while you were on the stand, didn't you testify as follows—I was asking the question, “Question: At the time you got this note, you knew the interest was

(Testimony of Einar Glaser.)

not paid on it, it was delinquent, isn't that right?
You just said that, isn't that right?

Answer: That is right."

Did you so testify?

A. Yes.

Q. And isn't that a fact?

A. Yes, but I might add that Mr. Errion made a statement that he would take care of it. [103]

Q. All right. Now, you never looked at this property, did you, before you acquired this note and mortgage? A. No.

Q. Did you know where it was located?

A. General vicinity, yes.

Q. Did you know the address?

A. We had the address, I don't remember where.

Q. And did you know who was in possession of the property? A. No.

Q. Did you make any inquiry?

A. No, I didn't until a little later.

Q. Until sometime later. As you indicated, you never got a title report, did you? A. No.

Q. And you never made any—before you took this note and mortgage, Mr. Glaser, you made no inquiry whatsoever about the property before taking that note, did you?

A. No. I relied on Mr. Errion's good representations and the impression he had made on us.

The Court: There again, I know for lay people, they don't sometimes follow it closely, but it is important to answer the particular question.

(Testimony of Einar Glaser.)

You didn't even ask Errion these things about [104] the property, did you?

The Witness: He described it to me, and I accepted his description and his evaluation.

Q. (By Mr. White): You made no inquiry of anybody outside of what Mr. Errion told you about this property before you took the note, did you?

A. No.

Q. Now, at this time in August of '51, you had signed, had you not, an agreement to pay to Mr. Errion when he sold—strike that. I will start over again with a preliminary question.

In June, roughly in June of 1951, you and Mr. McKinney, your partner, had listed your holdings, your timber holdings, for sale to Mr. Errion to sell for you, right? A. Yes.

Q. And later but before August of 1951, before this note transaction, you had signed a written agreement to pay as commissions to Bob Errion for consummating this sale when and if he consummated it, commissions in the amount of approximately \$75,500, isn't that right? A. No.

Q. Did you sign such an agreement?

A. After the notes and mortgages were delivered to us—— [105] * * * * *

Q. (By Mr. White): Mr. Glaser, you weren't worried about getting your money back from Mr. Errion, this \$16,000 and the other 25 that you described you loaned to Mrs. Skene? You weren't worried in August about getting your money back, were you? A. No.

(Testimony of Einar Glaser.)

Q. And your primary concern or assurance that you were going to get your money was the fact that you had agreed to pay real estate commissions of \$75,500, and you knew that when you had to pay those, you could just deduct the \$40,000, isn't that correct? [106]

* * * * *

Q. (By Mr. White): Didn't you in September of 1951 tell your partner, Bart McKinney, that you had loaned \$40,000 to Errion? A. I may have.

Q. And didn't you also tell him you weren't worried about it because you were going to get your money back by deducting it when you paid Errion the \$75,500 commission?

A. I don't recollect any conversation with Mr. McKinney of that nature.

Q. Well, now, isn't it true, Mr. Glaser, that the reason you didn't pay attention to finding out who was on the property and all about this note transaction was that you were primarily relying on the fact that you would see that you got your \$40,000 at the time you paid Errion \$75,500 by just deducting it? Wasn't that in your mind?

A. That was in the back of my mind as a secondary——

Q. But—— [107]

* * * * *

The Witness: Shall we say as a secondary recovery.

Q. (By Mr. White): Well, at the time it was a primary recovery idea, wasn't it? A. No.

(Testimony of Einar Glaser.)

Q. Now, your deposition was taken, Mr. Glaser, in this case, Glaser versus Holdorf, in reference to the Skene property in the Superior Court in the State of Washington for the County of Mason and before a notary public, Kenneth M. Baker, on December 15, 1955, at 4 o'clock p.m. at the office of Kenneth H. Baker, court commissioner in Thurston County, Court House, Olympia, Washington. Do you remember appearing there and taking a deposition in which Mr. Byron McClanahan, who sits here, and Mr. Wayne Wright was present? A. Yes.

Q. Do you remember that? A. Yes.

Q. I am going to ask you if you didn't testify as follows at that time. I am reading from page 13 of the transcript. "Question: At the time of this note and mortgage"—now, this is referring to the Skene note in fairness to you, not this particular note—"At the [108] time of this note and mortgage, did you do any checking on Mr. Errion or Mr. Holdorf as to whether or not they were responsible people?"

Answer: I asked my partner if he had. He was spending all his time in Portland or the majority of it, and I was busy on the production end that occupied all my time. So I asked him. He said apparently as far as he could find out, they were all right. They must have been, because he was instrumental in starting the negotiations with them regarding the sale."

Pardon me, I read the wrong portion. Let me

(Testimony of Einar Glaser.)

read this again to you, and it's still referring to the Skene transaction, not this note, Mr. Glaser.

“Question: You said a moment ago that the way this matter has turned out that you wouldn't call this advancement of money and taking the notes and mortgage on the Mason County property as an investment. Would you say it was a loan of Mr. Holdorf?

Answer: My principal thought at that time was that I wanted to do everything possible to help them conclude the sale of our properties, and I think we were in some type of negotiations then, and if the sale was concluded, I would owe them a sizable commission, and I could offset it against the commission if they didn't pay. [109]

Question: Did you do that? Did you offset the money?

Answer: No, because the sale was never concluded. It was thrown into legal difficulties.”

Did you so testify?

A. Yes.

Q. Now, you never communicated with Mrs. Connell at all until you consulted—until December or thereabouts in 1953 after consulting with Mr. Wendell Wyatt and Mr. Wayne Wright, you caused a letter to be written demanding all of this money, isn't that right? A. Yes.

Q. And at the time you took this note you could have demanded the interest in default, and you could have accelerated and made the demand

(Testimony of Einar Glaser.)

the moment that you got the note, is that not correct?

A. You are way over my head. I am not that smart a businessman to know what you are talking about.

Q. I see. Well, Mr. Glaser, you were consulting other attorneys in this business transaction, Mr. Bill Prendergast in August of '53, were you not, June, July, August?

A. No, I didn't meet with Mr. Prendergast until—I believe it was October.

Q. Of '51? A. Of '51, yes. [110]

Q. Did you talk with any other attorneys in connection with this sale of your business properties in August of '51? A. Unfortunately, no.

Q. Isn't this true, at the time you—what brought about your consulting Mr. Wendell Wyatt and Mr. Wright about this note was the fact that you were served with summons in this Federal Court commenced by Mrs. Connell in August 28, 1953, involving—pardon. Withdraw that.

Isn't it a fact—I want to make this simple, and I am sorry, Mr. Glaser, isn't it a fact that before you consulted any attorneys or made any demand on Mrs. Connell for this money on the \$16,000 note, you had already been served with summons in a Federal Court action commenced by Mrs. Connell here in this court against you, Errion and Holdorf and the others? A. Yes.

Q. Isn't it a fact that that is what prompted you to make a demand for this money?

(Testimony of Einar Glaser.)

A. I became extremely apprehensive about how good it was. I really found out how bad we had been taken.

Q. And if that suit hadn't been filed and you hadn't been served, it would have been some time much later before you would have made any demand, isn't that right?

A. No. We were already consulting with Mr. Wyatt about it.

Q. I see. Isn't it a fact that as soon as you were served [111] in this Federal case, Number 3556, the case I just referred to, Mrs. Connell's suit, that you consulted with Mr. Errion about that suit? A. No.

Q. Isn't it a fact that you talked with Mr. Errion after being served about this note and mortgage?

A. My wife called him and read the riot act to him.

Q. And didn't he instruct—well, you never talked with him, is that what you are saying?

A. No.

Q. Do you have any recollection of Mr. Errion phoning you right after you had been served with summons in this Federal case, this 3556 case, and you and he discussing the situation and Mr. Errion telling you to sue on that \$16,000 note in retaliation?

A. The only recollection I have is that we were trying to put all the pressure we could on him by

(Testimony of Einar Glaser.)

words, and he said that he would have Mr. Holdorf come down and clear the matter up.

Q. Do you deny that Mr. Errion some time shortly after you were served with summons in the Federal case had a telephone conversation with you in which he told you to file suit on this note to retaliate against Mrs. Connell?

A. I don't recollect any. [112]

Q. I see. Now, you didn't purchase this note to invest in it but to loan money to Errion, isn't that correct? A. Yes.

Q. Weren't you holding it temporarily for Mr. Errion?

A. I wouldn't know how to answer that. Not holding it, I had money in it. I was going to hold it until I got my money out of it.

Q. But what you had in mind, isn't this right, that you were going to get your money back when you were paying commissions to Mr. Errion, and then at that time you would be transferring back these notes to him or whoever he told you to, these mortgages? A. I didn't get the last part.

Q. Isn't it a fact that you had every intention of getting your money by offsetting it against commissions and then assigning back this Connell mortgage to Mr. Errion?

A. If that materialized, yes.

Q. And the situation is that that was your state of mind when you went into your transaction, and since you couldn't get your money that way, that

(Testimony of Einar Glaser.)

you are now suing to get it this way from Mrs. Connell?

A. I would like to recover my money.

Q. You didn't even look at the endorsement when that note was handed to you, did you?

A. I looked at it, yes, and it appeared proper to me. [113]

* * * * *

Q. (By Mr. White): Do you have any recollection of ever actually, Mr. Glaser, seeing the original mortgage? I am not thinking of the photostat, the photostatic copy, but have you ever actually seen the original mortgage?

A. Well, if that is what Mr. Wright has, yes, because I delivered it to him, I believe.

Q. And if he hasn't got it, then the answer would be "No", wouldn't it? A. Yes.

Q. Your wife, Mr. Glaser, was a school teacher, wasn't she? A. Yes.

Q. And she has had a college education?

A. Yes.

Q. And you and she at this time in August of '51 were consulting each other in respect to these transactions, weren't you? A. Yes.

Q. And she knew along with you all about these matters, [114] did she not? A. Yes.

Q. You executed an agreement so far as you were concerned to pay Mr. Errion a commission for this sale, at least as far as your partnership interest was concerned of this timber land, did you not? A. Yes.

(Testimony of Einar Glaser.)

Q. When did you execute that?

A. Sometime in October.

Q. Of—— A. '51, 1951.

Q. Mr. Bart McKinney never executed such an agreement, did he?

A. That is what I understood.

Q. At the time this property was listed, it was listed without a provision to pay commissions?

A. I don't remember how the listing read.

Q. Well, the amount of these commissions, am I not right, was \$75,500? A. You may be right.

Q. Yes. A. I don't remember exactly.

Q. It was a substantial sum, was it not?

A. Yes.

Mr. White: I believe that's all, your Honor.

The Court: Redirect.

Redirect Examination

Q. (By Mr. Kobin): Did you hear from Mrs. Connell in 1952 or any time previous to that time?

A. No.

Mr. Kobin: That's all.

The Court: That's all, Mr. Glaser. Step down, please.

(Witness excused.)

The Court: Call another witness.

Mr. Kobin: We will call Mrs. Glaser.

DOROTHY BROCK GLASER

called as a witness on behalf of the Plaintiffs, being first duly sworn, was examined and testified as follows:

The Clerk: Please state your full name.

The Witness: Dorothy Brock Glaser.

Direct Examination

Q. (By Mr. Kobin): Where do you live, Mrs. Glaser? A. Jewell, Oregon.

Q. There is one thing we better get straightened out. [116]

How long have you been married?

A. Fifteen years June 15 this year.

Q. Mrs. Glaser, how did you happen to meet Mr. Errion?

A. I met him through my husband.

Q. And where did you meet him?

A. At his home in Salem, Oak Grove Farm.

Q. Were you invited down there?

A. Yes. He asked my husband to bring me down.

Q. And did you at that time have any private discussions with him?

A. Yes, that afternoon.

Q. How did it come about?

A. There was a large group of people there, and as soon as the picnic lunch was over, he asked us into his office.

Q. By "us", you mean whom?

A. My husband and myself.

(Testimony of Dorothy Brock Glaser.)

Q. What did you discuss at that time, just briefly?

A. Oh, this listing that he was to have, and he talked some of how he would go about it, to sell the logging interests.

Q. Just generally what did he tell you at that time about himself?

A. Oh, that he was quite a horseman, and that he had all these prize-gaited horses out in the pasture, that he [117] had beautiful saddles, bridles and so forth. He talked a lot about that.

Q. Did he talk about any business transaction?

A. Yes. I can't recall, but the impression was definitely that he had been of great assistance to a great many people or large corporations. I believe there was something about buying a tract of timber, and about—I think he was supposed to have set up books for Safeway Stores or something like that. Those things still stay in my mind.

Q. Did you see him quite often between the time you first met him, Mrs. Glaser, and the first part of June of 1951?

A. Yes. It was quite often, I would say, more as a housewife than anything else, because my home was being disturbed all the time. In fact, I don't like to have guests running in unexpectedly.

Q. You were living down at Jewell?

A. At Jewell.

Q. Did Mr. Errion come down there very often?

A. He was there quite often and unexpectedly, he or Mr. Holdorf. If they weren't together, why,

(Testimony of Dorothy Brock Glaser.)

either Mr. Holdorf or Mr. Errion was there. We would see him three and four times a week.

Q. For what purpose? What did they tell you? What were [118] your conversations at the time?

A. Oh, he would bring little gifts, candy, such as that. I think more or less he was on fishing expeditions. He was trying to find out what we had.

Q. How did he go about doing it? What did he talk about? You can't testify as to what you think. You can't testify as to surmise. You can say what he said and what you told him.

A. I guess I am speaking in light of what I know now, but, oh, just general conversations. He was a very charming person, very well mannered.

Q. Did he talk about corporations?

A. Yes.

Q. What did he say about corporations?

A. Mostly about what he had done for different corporations.

Q. In what way?

A. He had solved their tax problems. He had set up their books in a different way so as to save them money.

Q. Did he talk about any syndicate of wealthy individuals who were going to buy your husband's business?

A. I don't think of the word "syndicate" so much as corporation. This, I can't tell when this began exactly, but the idea was he had a group of men—— [119]

Q. Did he tell you this?

A. Yes. He had a group of men that he was

(Testimony of Dorothy Brock Glaser.)

going to set up the corporation for them. They had wealth. Mr. Buell was backed by great wealth, but they had asked him to set up the corporation, and from what he had told me, I judged he was an expert on setting up corporations.

Q. Now, did Mr. Holdorf come down with him very often? A. Very often.

Q. Did these conversations take place before you gave him this money?

A. These conversations took place all through this time. Yes, before we gave him the money, after we gave him the money, all during this time.

Q. We are going to confine your testimony, then, Mrs. Glaser—to get along with the Connell transaction, just tell the Court what you know about the Connell transaction.

A. I dare say, I discussed the small points with Bob more than my husband did. He being man-like, it was just the big issues that interested him, but I being womanlike, I took in all the small points.

Q. What were the small points that you discussed?

A. He described the house to me. He also told me that it was in a very good residential district, and that [120] it had a great number of rooms, that Mrs. Connell had converted this house into apartments, but because of zoning regulations, she had had to do away with that, so I knew approximately the type of zone it was in and the type of house, the size.

(Testimony of Dorothy Brock Glaser.)

Q. Can you tell me whether or not he told you the owner was living in the house?

A. Yes, he did. He told me that she was living in the house.

Q. May I ask you this, Mrs. Glaser; before he started to approach you about getting some money on the Connell mortgage, did you have any discussion with him about getting the money?

A. Yes. He had said that his time was being taken up, and he had a lot of business of his own that he couldn't concentrate on that he had a lot of money in, but he had to make an effort to collect this money, and right now he didn't have time because he was working on our deal, and he was temporarily short of funds.

Q. Did he make—did you ask him anything about the security, Mrs. Glaser?

A. Well, when he came right down to it and asked us to loan him money, I said it was all right if we had good security.

Q. Now, did he describe the security to you after you had [121] asked him, or did he volunteer it? That is the question I asked, if you recall, Mrs. Glaser.

A. I think he had discussed Mrs. Connell's home with me before we were ever approached, that is, asked out and out for the 16,000.

Q. How did that come about?

A. I have several antiques at home, and he brought up the fact that Mrs. Connell had this home, and she had a room in the basement that

(Testimony of Dorothy Brock Glaser.)

was full of antiques mostly what she had collected in China, and he told me that he wanted me to meet her, and he said, "If you will go with me and if you will admire whatever you like, I am sure she will give it to you," and he suggested to me that she had a huge—it was carved grapes, something like that—I think it was grapes. Anyway, it was a carving. He said, "That is what you should really get," and I told Mr. Errion that I didn't want anything that was gotten that way.

Q. That was before he actually wrote up this mortgage on the home? A. Yes.

Q. Now, did he then subsequently discuss the home with you also?

A. Yes, he had described the home.

Q. What I am trying to find out, Mrs. Glaser—— [122] A. I don't know just when.

Q. Is whether or not he was talking about the same piece of property on both occasions.

A. To my recollection, that is the only piece of property he discussed in connection with her.

Q. I see. Now, did you have any discussion with Mr. Errion, if you recall, relative to the interest being past due, or did you on this note?

A. Yes, I did ask Mr. Errion that. He said that it started in from the day that we took the note. Now I understand why. He said there was——

Q. (Interrupting) What did he say to you?

A. That there was no interest due to us. Now I understand today, when they brought up about

(Testimony of Dorothy Brock Glaser.)

that predating of the note, of course, there was no interest due. * * * * *

Q. (By Mr. Kobin): Did you call Mr. Errion's attention to the interest at any time, Mrs. Glaser?

A. Many times.

Q. What was his response?

Mr. White: This is before the transaction?

The Witness: This is after. Many times [123] afterwards.

Q. (By Mr. Kobin): What was his response?

A. He told me that he would take care of it, that he would contact Mrs. Connell, that he knew how to handle her, and he spoke something about her age. Well, I will just let that go.

Q. Mrs. Glaser, did you make any inquiry of any other person about the security that you were getting?

A. I spoke to Wendall Wyatt in Astoria. He is an attorney.

Q. I am talking about before the transaction.

A. Before the transaction, no. As I recall, it was rushed through so that I wouldn't have known to whom to go, and at the time because of my husband and his partner's faith in Mr. Errion, their complete faith, I assumed that he was all right and believed he was honest and a good risk.

Q. I would like you to clear up one point, Mrs. Glaser, about the going to Wendall Wyatt. Who went to Wendall Wyatt and when was that?

A. I did. That was before we were served on the Connell case. Do you want me to tell—

(Testimony of Dorothy Brock Glaser.)

Q. Just briefly. Did you go to Wendall Wyatt?

A. Before, because by that time we didn't have too much cash, ready cash, and we had to begin to bring in the money that was owed us, so I went to Wendall about [124] checking the interest on these mortgages and notes. Then I don't think it was more than a week, if it was that long, when I received—I was served with the papers on the Connell case. I was home alone. I immediately took them into Mr. Prendergast because my husband—I believe that day was in town. I took them up and showed them to Mr. Prendergast, and I was sick, just sick at the whole thing, and he told me to contact Mr. Holdorf, so I tried to get Mr. Holdorf that day but I couldn't. I got ahold of Mr. Bob Errion. They were one and the same to me. I told Bob Errion to come downtown and meet me, and then I showed him this summons, and I said, "You are going to have to do something about this." I said, "You and Dwight know that we have nothing to do with this. Now, you do something and do it right away," and Bob said that he would get Dwight and send him down to Wendall, and he would have Dwight sign a release saying that we had absolutely no knowledge of fraud.

Q. Did you know anything about the transaction, Mrs. Glaser, between Mr. Errion and Mrs. Connell?

A. I did not. I supposed that he had obtained those honestly and ethically.

Mr. White: Move to strike——

(Testimony of Dorothy Brock Glaser.)

Q. (By Mr. Kobin): Did he ever tell you whether he had [125] obtained them honestly or dishonestly? A. No.

Q. Did he ever tell you that they were valid obligations? A. Yes.

Q. How did he tell you that? Did you talk to him about it?

A. Well, now, as I recall, he had received those mortgages in exchange for land, for an acreage.

Q. Did he tell you that?

A. Yes. He told me that he had obtained it—it was some land transaction, that she had received value for this mortgage that she had given to him.

Mr. White: This is after it? When is all this taking place, these conversations?

Mr. Kobin: The last I was referring to was prior to the transaction having been——

The Court: I am not sure the witness understood. I think the witness is talking about when the complaint was served, what his explanation was.

The Witness: I knew that it had been in exchange for land.

Q. (By Mr. Kobin): When did you know that?

A. I knew that when I talked to Mr. Errion.

Q. When? [126] A. About Mr. Holdorf.

Q. That was when you called him after the lawsuit was filed? A. Yes.

The Court: That is what I thought she said.

Mr. Kobin: I am sorry, but I misunderstood.

The Witness: Just a moment. Mr. Holdorf did come down.

(Testimony of Dorothy Brock Glaser.)

The Court: We are not interested in that.

Q. (By Mr. Kobin): That is immaterial.

A. O.K.

The Court: There is no criticism of you. This has nothing to do with this problem.

Mr. Kobin: That's all.

The Court: Cross-examination.

Cross Examination

Q. (By Mr. White): Mrs. Glaser, have you and your husband ever had money before on a mortgage to anybody? A. Yes.

Q. Ever borrowed any money on a mortgage?

A. You mean we have given——

The Court: You mean prior? [127]

The Witness: We have given mortgages in return for money you mean?

Q. (By Mr. White): Yes. A. Yes.

Q. With a bank, or whom do you deal with?

A. No, private people.

Q. Those people that took the mortgage, they *invested* the mortgage pretty thoroughly before they took your mortgage, didn't they?

A. No, Mr. White, they didn't have to.

Q. I see. Well, they knew you very well?

A. Because they know us very well.

Q. I see. At this time when your husband and you were taking this \$16,000 note from Mrs. Connell, you didn't know her at all, did you?

A. No, but I knew Mr. Errion. I thought I knew Mr. Errion.

(Testimony of Dorothy Brock Glaser.)

Q. All right. You didn't know Mrs. Connell at all? A. I didn't know Mrs. Connell, no.

Q. But you did know that she had some nice antiques?

A. Yes, which I was not interested in.

Q. Yes, and you did know that this mortgage was on her home? A. Yes.

Q. And you did know she was elderly?

A. Yes. [128]

Q. And you did know she was a widow?

A. Yes.

Q. And did it ever occur to you how she was going to pay this note to you let alone the interest that was overdue?

A. I understood that Mrs. Connell had property and that she had money. This was from Mr. Errion.

Q. Yes, but you didn't make any investigation yourself, did you?

A. I didn't feel that it was necessary. We had faith in Mr. Errion.

The Court: The point is that you didn't do it. That is the question.

The Witness: We didn't do it.

Q. (By Mr. White): You could have gotten on the telephone and had a chat with Mrs. Connell at that time, couldn't you?

A. I am not the chatting kind.

Q. The telephone is open. You know how to use it.

(Testimony of Dorothy Brock Glaser.)

A. Mr. White is trying to show that I haven't got good sense.

The Court: He isn't trying to do that at all. We have a serious problem in the case, Mrs. Glaser. Nobody is trying to cast any reflections on anyone. Go ahead. Put another question. [129]

Q. (By Mr. White): Why did you wait so long? You knew the interest was past due when you got the note, didn't you? A. No.

Q. Oh. Well, your husband—you didn't know that?

A. I didn't, no. I was given to understand by Mr. Errion that it wasn't, that it began from the time we got the note.

Q. In other words, you didn't read the note?

A. Yes, I read the note.

Q. Well—— A. This was six years ago.

Q. I know it may be difficult. If you read the note, you could see—did you read the note?

A. Yes, I have read the note. I have seen it and read it.

Q. And didn't it by its terms indicate that the annual payment of interest was past due?

A. I couldn't tell you the date of that note. It's due annually or semi-annually, isn't it?

Q. Why did you—why didn't you make demand for the interest on that note at the time that you took it?

A. Because there was no interest due us on that note. We had just bought it.

Q. I see.

(Testimony of Dorothy Brock Glaser.)

A. Our interest was to start from the date of our purchase. [130] Isn't that what is——

Q. (Interrupting) You were getting interest, you weren't paying interest. Mr. Errion didn't tell you the interest was paid on that note, did he?

A. I can't say that he definitely said that the interest was paid or that he would get the interest for himself. Now, one way or the other; as I said, it's been six years, and I cannot be positive, but there was no interest due us on that date.

Q. All right. Now, Mrs. Glaser, upon August, 1951, when this note transaction took place, you had only met Mr. Errion either 30 or 60 days before that, isn't that right?

A. May, June, July—I met Mr. Errion, I believe, in May.

Q. And just on that short acquaintance, when he asked you for some money, you gave him \$16,000, is that right?

A. He was asking at that time in August—he had already had the listing of a million——

* * * * *

The Witness: Yes, because in the meantime he had the signed listing for a million-dollar business, [131] and if my husband and his partner could trust him with a million-dollar business, why couldn't I go along on a \$16,000 loan?

Q. (By Mr. White): At that time he was going to have a commission coming to him, wasn't he?

A. Yes, that was understood.

Q. And you felt, did you not, that you were certainly getting your money back when you had to

(Testimony of Dorothy Brock Glaser.)

pay him the large commission, you could have just deducted what was owing on it?

A. Why, yes, Mr. White. Wouldn't you feel the same way?

Q. That's right. That is the primary reason you made this loan, isn't that right?

A. No, it is not. The primary reason was because of this security that we had.

Q. Well, now, Mrs. Glaser, you weren't concerned so much with this security as you were with the fact that you were going—when you had to pay Mr. Errion some money, you were going to deduct it, isn't that right?

A. Will you rephrase that question?

Q. You weren't concerned with this security that you are now talking about, this \$16,000 note and mortgage, as much as you were about the fact when this deal went through and you paid him some money, you could just deduct this and get your money back? [132]

A. The way I *put* that question, I can't say yes or no, but I can say this, that I was concerned about the security, the value of the security, to the point that not long afterward, I had the property evaluated. Now, I was told that it was in a good residential district, that it would well carry that \$16,000 mortgage, but in time it was running downhill, that the Negroes were coming in, and it wouldn't be long until the value wouldn't be there.

Q. That was right after this transaction?

A. That was shortly afterwards. I can't tell you just exactly.

(Testimony of Dorothy Brock Glaser.)

Q. Why did you and your husband wait two years and four months until you were sued before making a demand for the principal or the interest or both?

A. Mr. White, do you know what we went through during those two years?

The Court: Please don't argue with Mr. White. Why did you wait over two years before——

The Witness: We were in——

The Court: Answer the question.

The Witness: We were in court. We were being sued because of Mr. Errion. We didn't have time to sit down and do much of anything, and that is why we didn't. [133]

Q. (By Mr. White): Now, Mrs. Glaser, you and your husband had never sued Mr. Errion, had you?

A. No, but you know why, Mr. White, because there is no use in sending good money after bad.

Q. You and your husband, your partner, Mr. McKinney, sued Mr. Errion and had adjoined your husband as a—— [134]

* * * * *

DWIGHT HOLDORF

called as a witness on behalf of the defendants, being first duly sworn, was examined and testified as follows: [151]

* * * * *

Cross Examination

Q. (By Mr. Kobin): How old are you?

A. 34 years old.

(Testimony of Dwight Holdorf.)

Q. 34. Are you the same Dwight Holdorf who has been associated with Mr. Errion for the past several years? A. I am.

Q. Are you the same Dwight Holdorf that Mrs. Connell testified relative to yesterday? [168]

A. I am.

Q. How many corporations were you an officer of? A. You want me——

Q. Approximately how many.

A. Oh, approximately eight or nine or more.

Q. You don't want this Court to believe that you were nothing more than Mr. Errion's messenger boy, do you, Mr. Holdorf?

A. I was strictly Mr. Errion's messenger boy. I was at his bidding. I was used as a dupe, as a fool, as a proxy in all of his work.

Q. For how many years did that go on for, Mr. Holdorf?

A. From 1949 until the time I got away from him.

Q. When was that, sir?

A. I started breaking away in '53, and the SEC suit came, and I made the final break completely in '54 right here in this Court with my own attorneys.

Q. In 1954. After all this litigation had been filed, the SEC and several lawsuits in which you were named as a party defendant, you then came into this court and admitted that you were—had perjured yourself previously, is that your testimony? A. In 1953?

(Testimony of Dwight Holdorf.)

Q. '54, sir. A. In '54 in this trial? [169]

Q. Yes. A. I certainly did.

Q. And you admitted that you had made, that you had given perjured statements in previous litigation?

A. In depositions I did. I told the Court the truth, and I am still telling the truth. I have got my own attorneys, and I am acting strictly on the advice from my attorneys.

Q. Now, Mr. Holdorf, you started to work for Mr. Errion in what part of 1949?

A. In the latter part of 1949.

Q. Did you meet Mrs. Connell through Mr. Errion? A. I did.

Q. Were you present at his conversations with Mrs. Connell?

A. I was present at some of the conversations but I wasn't present at all of them. Mr. Errion wouldn't leave you present at conversations when he didn't want you to know everything that was going on. In other words, with Mr. Errion, the left hand never knows what the right hand is doing. That is true for the people that are around him.

Q. Well, Mr. Holdorf, you want this Court also to believe that you didn't know what Mr. Errion had been doing for the four years that you were his so-called messenger [170] boy, is that right?

A. I am telling the truth, exactly what took place. I was used as a fool. I was used as a proxy. I was a dupe in the whole thing. Mr. Errion has

(Testimony of Dwight Holdorf.)

a very powerful, persuasive way. He can make you believe white is black and black is white, and I was simply used, and at that time I didn't fall to it until it was too late.

Q. Well, why didn't you, Mr. Holdorf?

A. For the simple reason Mr. Errion is a very powerful, persuasive man. He is a gentleman that can go on and even persuade attorneys to his way of thinking, and he is very clever at the way he does it, and I was a boy off the farm. I didn't know anything about corporations, notes, stocks or bonds. I had a lot of ambition. He preyed on my ambition, and I was the loser, and I didn't tumble to it until it was too late.

Q. Did you meet Mrs. Skene?

A. Yes, I did.

Q. And you knew Mr. Errion was using Mrs. Skene, didn't you?

A. No, not at that time.

Q. Well, did you take title to Mrs. Skene's property? A. I sure did.

Q. In your own name? [171] A. I did.

Q. Did you give Mr. Glaser a mortgage on that property in your name and your wife's name?

A. Yes, I did through the direction of Mr. Errion.

Q. Who got the money?

A. It came to me and went right to Mr. Errion.

Q. You didn't keep any of it?

A. No, it filtered right through my hands——

Q. (Interrupting) Whose bank——

(Testimony of Dwight Holdorf.)

Q. (By Mr. Kobin): Whose bank account did the money go into?

A. My bank account in Seattle First National Bank in Vancouver, Washington.

Q. And then you wrote the check to Mr. Errion, is that it?

A. I wrote checks out of that at Mr. Errion's—actually, the money in that bank account was Mr. Errion's money to be disbursed at Mr. Errion's discretion.

Q. You so did? A. I so did.

Q. Did you know what he had done with Mrs. Skene in order to get that property from her at that time? [172] A. No, I didn't at that time.

Q. Now, you said that he was—you were a stockholder in Pacific Properties?

A. I didn't say I was a stockholder in Pacific Properties.

Q. What were you in Pacific Properties?

A. I was just merely a figurehead in Pacific Properties as I was in all of his corporations.

Q. Was what?

A. I was just a figurehead. He used me as a figurehead.

Q. What do you mean by "figurehead"?

A. In other words, I was too green and too stupid to know what I was doing, and he used me, in other words, just as a name.

Q. He used your name? A. Yes, he did.

Q. And you signed papers?

(Testimony of Dwight Holdorf.)

A. I did lots of papers.

Q. That was the device whereby he was able to get monies from Mrs. Plamondon?

A. That's right. That is what it all turned out to be.

Q. Let me ask you whether Mr. Holdorf you were a party in a lawsuit that Mr. White filed for Mrs. Plamondon? A. Yes, I was.

Q. You were a defendant in that case?

A. I was. [173]

Q. That was back in what year?

A. That was back in 1950, I believe.

Q. Yes. Now, in 1950 you already had been sued by Mrs. Plamondon, Mr. White representing her, and in that case Mr. Errion and you were charged with fraud perpetrated upon Mrs. Plamondon?

A. That's correct. We were represented by Mr. Prendergast which was associated in his office in Portland, Mr. Kobin.

Q. I am glad you got that in. Mr. Holdorf, you want this Court to believe that despite the fact that in 1950 you had already been sued by Mrs. Plamondon where you were charged with fraud, that you didn't know in 1950—you were nothing more than a dupe? Is that what you want this Court to understand?

A. I do because that is what I was.

Q. You continued from 1950 up to 1954 to associate yourself with Mr. Errion?

A. I did. I was in the trap and in the web.

Q. You were in what trap, sir?

(Testimony of Dwight Holdorf.)

A. The trap that made the corporations that Mr. Errion could get you in.

Q. Just tell the Court the trap you were in.

A. Mr. Errion will organize a corporation. He will put you in as an officer and a director in that corporation. [174] He will take properties into it very smoothly like he did with Mrs. Connell and others. Your name is on all these papers going in and coming out. Then the money comes into the bank account. Mr. Errion has you write checks on these bank accounts siphoning this money out. At the time you are doing all of this, Mr. Errion has already got all of his stock to the company endorsed in blank, and he don't believe in keeping up any minute books, no resolutions, put in any tax returns or anything else. He has the stock endorsed in blank. Your name is on all of these papers. You are setting out there in the public just like a sore thumb. You had it.

Q. Did he do that prior to 1950 with Mrs. Plamondon?

A. It turned out—I didn't realize it in 1950, but it turned out the same program, the same thing that he used.

Q. That was the charges that were made in the complaint, was it not?

A. I don't remember the complaint. There was a complaint filed. It was turned in to Mr. Prendergast. I don't know who it was in it. I knew they charged fraud.

Q. Now, Mr. Holdorf, you knew, did you not,

(Testimony of Dwight Holdorf.)

that the Connell property was in the name of Dwight Holdorf?

A. In the beginning, if I remember correctly—the documents [175] would speak for themselves, but I believe that he first—the way he worked it, he had all the property transferred to my name to hold, the Holdorf Oyster Corporation, solely in my name to hold. Also the oyster property in Coos Bay was held in my name and transferred into the Holdorf Oyster Corporation.

Q. You knew what he was doing with Mrs. Connell, did you not?

A. At that time I did not realize what he was doing.

Q. You didn't know what he was doing?

A. I had full faith and confidence in him and his attorneys. After all, he hired me. He was going to teach me business, show me and guide me and direct me, and he gave me an awful selling.

Q. I see. In other words, he set you up as a director or as an officer of all these corporations. He permitted titles to properties to be taken in your name, requested that you execute many instruments for and on behalf of those corporations, permitted you to receive large amounts of monies in your name which you deposited to your bank account, and thereupon checked the money out to Mr. Errion, and all you were was a messenger boy and a dupe? A. That's right.

Q. You say—when was the Connell suit filed?

A. In 1953.

(Testimony of Dwight Holdorf.)

Q. And you were served in that case, were you not? A. Yes, I was.

Q. The Connell case, I mean.

A. The Connell case here in Seattle, yes, I was.

Q. Incidentally, did you have anything to do with Connell Industries? A. No, I didn't.

Q. I see. You were served in the Connell case in 1953? A. I was.

Q. When was Beaver Plywood Co-op organized? A. Pardon?

Q. When was Beaver Plywood Co-op organized?

A. It was organized in the spring of 1953.

Q. '53? A. Yes.

Q. How long did you continue in that corporation?

A. I was not an officer and director in Beaver Plywood. Mr. Errion had me in there as a salesman.

Q. Were you selling certificates in that corporation? A. I was.

Q. And you continued that up and to 1954?

A. No, sir, not in Beaver Plywood.

Q. In which co-op did you continue in?

A. In Beaver Plywood the certificate selling stopped when [177] the SEC had their investigation, and I remember I took the money that had come in the last couple of days of the sale of memberships, took it back and returned it, which I have got signed receipts for it, and the rest of the money that came into Beaver Plywood was handled by other people other than myself. I had nothing to do with it.

(Testimony of Dwight Holdorf.)

Q. You are under indictment now in the Beaver Plywood case in the Oregon District Federal Court, are you not? A. That is correct.

Q. You have been named as a party defendant in many of these lawsuits that have been filed against Mr. Glaser as a defrauder, haven't you, Mr. Holdorf?

A. I don't believe I have been named party defendant other than the one here in Seattle that Mrs. Connell filed from my recollection. I might have been, but I don't believe so.

Q. You were named party defendant in the Plamondon case?

* * * * *

A. Yes.

Q. (By Mr. Kobin): You were in the Plamondon case, weren't you? A. Yes.

Q. And many others? [178] A. Yes, sir.

Q. Thank you. Now, you talked about a fellow named Williamson. Did you know Mr. Williamson?

A. Yes, I did.

Q. Do you know that he was a so-called corporate officer along with you in National Forest Products? A. Yes.

Q. And did you know his background?

A. No, I didn't.

Q. You had no idea?

A. No, I don't. All I know that he worked for an oil company.

Q. Mr. Errion didn't tell you anything about him?

(Testimony of Dwight Holdorf.)

A. The only thing he told me, he built him up, that he worked for an oil company for many years—a good gentleman.

Q. Do you know that he represented to Mrs. Connell that Mr. Williamson was a wealthy lumberman?

A. I don't recall anything like that. I know he represented to her that he was a wealthy oilman, had been in the oil business for quite some years.

Q. Do you know that he represented to Mrs. Connell that he was going to sell her this Coos Bay property—sell him this Coos Bay property? [179]
* * * * *

Q. (By Mr. Kobin): Mr. Williamson, you said, was an officer along with you in National Forest Products and was the same party that Mr. Errion used in the Connell transaction?

A. Yes, he is.

Q. Did you do business with him?

A. At Mr. Errion's direction, yes, I did.

Q. Now, the National Forest Products Corporation was used by Mr. Errion to funnel monies belonging to McKinney Logging Corporation?

A. Yes, it was.

Q. Now, all the services that you performed for Mr. Errion, then, were performed in these many transactions which Mr. Errion had been engaged in between the years 1949 and 1953, is that correct?

A. That's right, all at Mr. Errion's direction.

Q. All at his direction? A. Yes.

(Testimony of Dwight Holdorf.)

Q. What part of the year 1953 did you receive this note? [180]

A. It was July, August or September of '53 when the heat was on. I don't remember the exact daytime or hour, but it was right in that time of the year.

Q. Was that before or after the Connell case had been filed?

A. I couldn't answer that question correctly because I don't have the date in my mind that the Connell case was filed, but I got the note. It was during that period of time.

Q. Do you know whether or not you received the note before or after you were served with the Connell summons?

A. I don't recall whether it was before or whether it was after. There was a lot of suits being filed, a lot of distress going on.

Q. Did you ever make demand upon Mr. Glaser for payment of that note?

A. No, I never did.

Q. Had you seen Mr. Glaser after you received the note?

A. I seen Mr. Glaser several times but had no occasion to talk about the note to him.

Q. You never told him you held the note?

A. No. We — there was too much litigation to talk to anybody.

Q. I see. Do you remember going down to see Mr. Wendell [181] Wyatt?

A. Yes, I do.

Q. And Mr. Glaser's attorney?

A. Yes.

(Testimony of Dwight Holdorf.)

Q. And were you forced to do that also?

A. Mr. Errion sent me down there.

Q. What did Mr. Errion tell you to do?

A. He told me to go down and get a corrective mortgage on the Skene property and at the same time sign whatever Mr. Wyatt and Mr. Glaser had drawn up for me to sign, which I did.

Q. And you signed it without equivocation?

A. I did.

Q. Did the statement that you signed before Mr. Wyatt, was it a false statement?

A. Pardon?

Q. Was the statement that you signed before Mr. Wyatt a false statement?

A. You mean as far as I was concerned?

Q. Yes, or anybody else.

A. I never paid that much attention to the statement.

Q. You don't know what was in the statement?

A. I don't recall, no.

Q. You recall whether or not—incidentally, Mr. Wyatt is an attorney, is he not? [182]

A. That's right.

Q. And he is associated with Mr. A. W. Norblatt in Astoria, Oregon, is that correct?

A. I don't know, but I know Mr. Wyatt is from Astoria.

Q. He was representing Glasers in the fall of 1953, was he not?

A. I believe so. Anyhow, Glasers—Mr. Glaser, I believe, was there in the office.

(Testimony of Dwight Holdorf.)

Q. Did you not at that time, Mr. Holdorf, sign a statement in Mr. Wyatt's office substantially to the effect that at the time Mr. Glaser received the Connell note——

Mr. White: No, it's the Skene note.

Mr. Kobin: The Connell note.

Q. (By Mr. Kobin—continuing): ——that he had no knowledge whatsoever of the circumstances under which that note had been obtained?

The Court: Do you remember what the statement said?

The Witness: No, I don't.

The Court: Then you will have to show it to him.

The Witness: I remember definitely signing something down there.

The Clerk: Plaintiffs' Exhibit 13 has been marked for identification. [183]

Mr. White: May I see it? No objection.

Q. (By Mr. Kobin): I am going to hand you what has been marked Plaintiffs' Exhibit No. 13, which is a certified copy of the original of the statement which you executed in Mr. Wyatt's office, and ask you to read it to refresh your memory from it?

Mr. White: Was that all the papers he signed that day, counsel? Mr. Kobin, was that all the papers?

Mr. Kobin: I am not on the witness stand.

Mr. White: Oh.

Q. (By Mr. Kobin): The question I asked, Mr. Holdorf, do you recall signing the statement to that

(Testimony of Dwight Holdorf.)

effect? A. Yes.

Q. Was this statement also signed at Mr. Errion's direction?

A. It was. Mr. Errion told me to sign whatever they had prepared down there.

Q. And this statement is also false?

A. I don't know whether it is false or not. I don't know whether Mr. Errion explained how this mortgage was secured to the Glasers from Mrs. Connell. I do know that Mr. and Mrs. Glaser had a lot of business dealings with Mr. Errion in the McKinney Logging Company, which took quite a period of time, that they [184] had gone to California with him on several occasions, and various times like that. I was strictly taking orders from Mr. Errion. I was breaking away from Mr. Errion. I had my mind made up. He told me to sign whatever they had.

Q. In other words, you didn't know anything about the transaction involving Mr. Errion and Mr. Glaser on the Connell note, then, is that it?

A. I delivered a mortgage to Glasers. The check that came from Glasers, I think it was \$12,500. There was several \$500 checks. It went into my bank account in Vancouver and checked out at Mr. Errion's demands, where he wanted it to go. What Mr. Errion, what he had told him, what deal they had gotten together, I don't think Mr. and Mrs. Glaser would certainly loan any fellow that had nothing \$16,000, and I hardly know them.

* * * * *

(Testimony of Dwight Holdorf.)

Q. (By Mr. Kobin): Mr. Holdorf, you signed the assignment of the mortgage, did you not?

A. Yes, I believe so.

Q. Did you put your name on the back of the note that Mrs. Connell had signed? [185]

A. I endorsed the Connell note, I believe.

Q. And did Mrs. Holdorf endorse the note also?

A. I believe so.

Q. On behalf of whom?

A. I don't recall right now.

Q. Well, on behalf of yourself or the Oyster corporation or Errion?

A. Mr. Errion gave us the orders to endorse that. He held all those notes.

Q. In other words, you didn't have the note at all?

A. No.

Q. You knew that you were signing the assignment of mortgage to Mr. Glaser?

A. I had the assignment of mortgage, yes.

Q. And you, as a matter of fact, recorded it for Mr. Glaser, did you not?

A. Yes, at Mr. Glaser and Mr. Errion's direction, I did. I was going to Seattle, and Mr. Errion sent me up here, and they told me to bring it up and record it and send it back to Mr. Glaser.

Q. You knew at that time that Mr. Glaser had given you \$16,000 by checks?

A. I believe that those cashier's checks were made out—I believe, if I remember correctly, Mr. Glaser endorsed to the Holdorf Oyster Corporation, and they [186] were deposited in the Seattle First

(Testimony of Dwight Holdorf.)

National Bank at Mr. Errion's direction and checked out of there at Mr. Errion's direction.

Q. Did they all go into the Holdorf Oyster account, if you know? A. Pardon?

Q. Did they all go into the Holdorf Oyster Corporation account? A. I believe so.

* * * * *

Q. (By Mr. Kobin): I am going to hand you Plaintiffs' Exhibit 14 for identification and ask you whether or not and in truth and fact this \$12,500 check went into your account, Mr. Holdorf, rather than to the Holdorf Oyster Corporation?

A. Yes, it did. It went into the Seattle First National Bank which is in my name, which was actually Mr. Errion's account and was checked out at his direction. [187]

* * * * *

Q. (By Mr. Kobin): Mr. Holdorf, the compensation that you are seeking that you claim Errion owes you or the National Forest is for the services that you have been relating to this Court here today?

A. I was working for Mr. Errion at his direction. I was entitled to pay, and I never got pay.

Mr. Kobin: Miss Reporter, would you please read the question, and if I may have a direct response plus your explanation, it will be fine.

(Whereupon, the last question was read by the reporter.)

The Witness: That is right.

Mr. Kobin: That's all.

(Testimony of Dwight Holdorf.)

The Court: I believe that's all, Mr. Holdorf. You are excused.

(Witness excused.) [188]

* * * * *

[Endorsed]: Filed February 20, 1958.

[Endorsed]: No. 15920. United States Court of Appeals for the Ninth Circuit. Einar Glaser and Dorothy Glaser, Appellants, vs. Marguerite L. Connell and William F. White and Janet D. White, Appellees. Transcript of Record. Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed: March 1, 1958.

Docketed: March 8, 1958.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.

[Title of Court of Appeals and Cause.]

APPELLANTS' AMENDED DESIGNATION
OF THE RECORD TO BE PRINTED

Appellants hereby amend their designation of the matters referred to herein as parts of the record necessary for consideration as follows:

1. That portion of the Pre-trial Order as follows:

(a) Admitted Facts as to plaintiffs' claim, ending line 24 page 3;

(b) Contentions of Plaintiffs as to plaintiffs' claim upon complaint, commencing page 5, line 1 to bottom of page 8;

(c) Contentions of defendant to plaintiffs' claim upon complaint commencing top of page 13 and ending at line 1, top of page 17;

(d) Concluding page 21.

2. Findings of Fact and Conclusions of Law and Judgment dated November 15, 1957.

3. Plaintiffs' exhibit No. 1—\$16,000 promissory note.

4. Exhibit No. 2 (Pl.) Mortgage dated July 12, 1950.

5. Exhibit No. 3, Written Assignment of Mortgage.

6. Exhibit 4, but only the following portions:

(No. 3556, Findings of Fact and Conclusions of Law).

* * * * *

7. Exhibit No. 13.

8. Testimony as follows: Commencing on page 5 to 70, inclusive (excluding remarks of Court and counsel); Commencing on page 83 as follows "By Mr. Kobin" and continuing to page 134 concluding with "Q. You and your husband, your partner, etc. * * *";

Commencing on page 168 as follows: Cross Examination, and continuing to and including page 188, ending with words, (Witness Excused).

9. This designation of parts of the record.

/s/ LEO LEVENSON,

Of Attorneys for Appellants.

Affidavit of Service by Mail Attached.

[Endorsed]: Filed March 18, 1958. Paul P. O'Brien, Clerk.

[Title of Court of Appeals and Cause.]

STIPULATION

It is hereby Stipulated and agreed by and between the parties hereto, acting through their respective counsel, that all the exhibits made part of the record on appeal may be considered by the Court in their original form without the necessity of printing. This stipulation refers to Exhibits No. 1, 2, 3 and 4.

Dated this 20th day of March, 1958.

/s/ LEO LEVENSON,
Of Attorneys for Appellants.

/s/ WILLIAM F. WHITE,
Attorney for Appellees.

[Endorsed[: Filed March 22, 1958. Paul P. O'Brien, Clerk.

